

SECURITY MANIA: AN INTRODUCTION

These papers, written for the general public and collected in book form, constitute a provisional assessment of the evolution of safety-focused policies and of the functioning of criminal justice institutions in France since the turn of the 2000s.¹ The authors are specialists in their particular field, well known and politically independent, who make full use of their critical faculty in the face of decisions which seem to be increasingly less guided by accurate evaluation of real problems, and conversely, increasingly so by either ideological preconceptions or media-oriented communications strategies. Before the reader takes cognizance of what each scholar has to say in his or her particular field, I would like to point out a few broad features characterizing the evolution of French security policies.

A POLITICAL WATERSHED IN ALLEGED RESPONSE TO “INSECURITY”

“Insecurity is fashionable, that’s a fact.” The quotation is from a journalist writing in *La Petite République* in... 1907.² So the issue is not new, any more than its objects are—take youth gangs, for instance.³ Nonetheless, it made a forceful comeback in public debate in the mid-70s, and has never left the forefront since. For many years, the subject divided the French along political lines. Broadly speaking, the left, more heedful of “social causes,” called for a combination of coercion

and prevention, whereas the right, entirely coercive, worked the traditional theme of “restoring law and order.”

The split then gradually subsided some time in the 1990s. When the “plural” left led by Prime Minister Lionel Jospin returned to power in 1997 it decided to take full possession of that territory. At the Villepinte colloquium in October 1997, the new government proclaimed safety a republican value, belonging “neither to the right nor to the left,” to which it would give priority as for unemployment. Until 2001 it conducted a relatively balanced, ambitious policy: while attempting to obtain the means for punishing sexual violence more effectively and responding more adequately to juvenile offending, the left also aimed at strengthening the presumption of innocence, improving conditions in prisons, and giving the justice system more resources and creating community police forces. But the fact was they had crossed a watershed, and the escalation had begun, both in the media and politically.⁴

On the mediascape, by 1998 a “discrediting campaign” was aimed at those newspapers that persisted in pinpointing the social causes of “insecurity” and “urban violence.” “Led by *Marianne*, a weekly, and *Le Figaro*, the most important right-wing daily, the campaign was aimed at *Libération* and *Le Monde*, two daily papers designated as symbols of ‘the starry-eyed left’, whereas this was at long last a time of political and media-informed ‘realism’ on the subject.”⁵ Actually, any critical or even moderate stance was delegitimized and replaced by one-track, catastrophe-obsessed thinking, contending that the situation is constantly deteriorating, that offending is “exploding,” that offenders are “younger and younger, increasingly violent” and completely amoral, that unemployment and

flawed institutions have nothing to do with it, that the fault lies with “abdicating” parents and “lax” judges, that it is time to “move on to something different” so as to restore order and safety “at last.”

On the political scene, the right had the upper hand, but the left helped it out. As early as January 1999, Jospin decided to show unusual resolve, possibly under the influence of Minister of the Interior Jean-Pierre Chevènement, always prompt to echo the classical police discourse on “the laxness of the justice system.” So he broke with his entire intellectual and political tradition, stating that we must stop talking about economic and social problems and “excusing offenders.” By adopting his political opponents’ farragoes and their very vocabulary, Jospin no doubt hoped to cut the ground from under their feet and deprive them of arguments. He failed to understand that he was making his own constituents more safety-minded,⁶ and starting a race on concern with crime that he would necessarily lose. Slowly but surely, having given in somewhat to the post-9-11 panic, then backed down in the face of pressure from the police officers’ unions and called into question a law on the presumption of innocence in spite of its almost unanimous adoption by parliament, he ended up “apologizing” for having been so “naive” about the links between unemployment and offending (which exist nevertheless).

The former prime minister thus finished digging the grave for any discourse other than fanatically safety-minded. From then on, there was no debate. Just a straight line, at the end of which voters, aided by media hype and the political orchestration of statistics and incidents, logically “preferred the original

to a copy,” as (extreme right-wing) Mr. Le Pen had said in a different context.

FROM THE SAFETY-MINDEDNESS WATERSHED TO THE SECURITY MANIA

That watershed in safety-mindedness dates back to the late 1990s, but another major turning point in the evolution of public policies has been crossed since 2002. As we know, the 2002 presidential election revolved around the themes of “concern with crime” and “zero tolerance,” with the right often pointing to the allegedly “spectacular achievements” attained in New York.⁷ Nicolas Sarkozy failed to become prime minister, but was named Minister of the Interior instead, and turned that position into a political springboard. Dominique Perben, then Minister of Justice, was just as zealous, as were both men’s successors. Moreover, the 2007 presidential election, far from having an appeasing effect, has not slowed down the spate of laws on internal security and criminal justice themes. Since 2002, then, people in power here have fallen prey to a real *security mania*, in the form of one series of laws after another, reforming law and penal procedure about every six months. Actually, each new law is voted as urgent, whereas the previous one has barely been implemented and its practical effects cannot yet be assessed. It is as if the function of legislation is henceforth less reformative than symbolic or “declarative.”⁸ It is as if, paradoxically, the fight against “insecurity” had become less a problem for the government than a solution: the way to demonstrate its resolve and show it is doing something.⁹

What forms does this security mania take? Several processes and trends coexist. I suggest to identify five, at the least: dra-

matization, criminalization, dehumanization, disciplining, and desocialization.

Dramatization

Dramatizing as a strategy did not merely serve in the 2001-2002 and 2007 election campaigns; it is constantly at work, and very seriously deforms reality. Let's take the example of juvenile offending and the judicial treatment it receives.

When presenting his future law on prevention to the National Assembly (Nov. 21th 2006), Nicolas Sarkozy asserted the need to break with the "guarantee of quasi-impunity for juvenile offenders," to put an end to the "culture of repeated measures such as reprimands and turning the youth over to his parents," since those measures have "no effect for such serious acts as armed violence and rape." He added that we had entered "a vicious circle of constantly escalating violence." For instance, "Who would ever have imagined, a few years ago, that someone would film youths raping a girl, just for fun and for the sake of circulating it? Who could have imagined that people would torture and kill a young man they had kidnapped just to make a fast buck? Who could have imagined that someone would beat a young man to death, using a baseball bat, in a cellar, out of jealousy? Who could have imagined that those crimes were not committed by hardened criminals? Well, no, they were committed by young people who had gradually experimented with ordinary petty offenses without meeting up with any real resistance. Then one day they went further, and toppled into barbarism."

The reality is very different, however.¹⁰ First, crimes (murders, rapes, armed robbery) taken as a whole represent only

about 1% of the juvenile offending reported by police forces. The other 99% are therefore of a different, less serious nature. If this is so, why focus entirely on 1% of the facts and ignore the other 99%? Next, how can one claim that the justice system lets juveniles off unpunished when the number of dismissals is constantly declining and that same system proudly announces that its “rate of penal response” is rising steadily, reaching 91% in 2008? Last, juvenile judges cannot be said to confine themselves to reprimanding youths and turning them over to their parents since those measures represent slightly less than one half of all sanctions pronounced against minors, the other half being represented by various coercive measures and above all, imprisonment.

Thus, the strategy of dramatization leads to the dissemination of genuine falsehoods. In addition, it is an obstacle to the analysis of any other trends and adjustments that may occur, whereas it is easy to make reliable diagnoses without attempting either to deny the problems or to dramatize them unduly. But that would require that the political and media-led debate leave room for this form of rationality, whereas the room left for thoughtful analysis is constantly shrinking in the face of calls for “concern with crime” and “defending victims.” Indignation has replaced analysis, and incidents justify legislation. For instance, Georges Fenech, member of the UMP, President Sarkozy’s party, parliamentary representative, and rapporteur for the bill on the imprisonment of dangerous criminals, could say, “Yes, this is a contingent bill. It is legislation for the unfound women in the Yonne département, it is for Delphine and Céline, for Fourniret’s victims... and we fully accept the fact.”¹¹ Such dramatization is politically productive, a tried and

true strategy in the United States, known as governing through (the fear of) crime.¹²

Criminalization

In response to this allegedly new, rising criminality, the security mania responds above all by the wholesale strengthening of legal weaponry. New offenses are created, expanded definitions given for existing ones, “aggravating circumstances” added, calling for harsher sentences and sometimes even modifying the judicial designation of acts (the same act is no longer a petty offense but a misdemeanor, or not a misdemeanor but a felony), the police is given additional power, and civil liberties are reduced within the criminal procedure, especially in the name of the fight against terrorism which dictates “exceptional measures” tending to become more commonly and broadly used.¹³

The outcome is a series of trends which endanger some basic principles of law, including independence for judges, threatened by the concept of “minimum sentences”; respect for defendants’ rights, threatened by the concept of summary trial and of punishment without a trial; attenuated liability for the underaged, threatened by the intention to erase the distinction between different ages; individualized sentences (meaning that the offender’s personality, not merely his acts, determine punishment), threatened by the concept of summary trial and of the automatic calculation of sentences in case of backsliding. Not to mention the most elementary right to freedom, now threatened by the law on “safety detention” voted on February 25 2008 and decried by most psychiatrists (as by the National Consultative Commission for Human rights), thanks to which some “dangerous criminals” may be sent back to prison, eventually for life, once they have served their term.

In the present work, two jurists give an in-depth analysis of these changes: Jean Danet analyzes the essence of the wave of criminal legislation voted since 2002, while Christine Lazerges concentrates on juvenile justice, a major aspect of this evolution.

This criminalization process, linked to the trends affecting the “management” of criminal justice of which more later, is clearly aimed at aggravating punishment and often encourages prison sentences. The outcome is clear. As of January 1, 2009, there were 66,178 prison inmates, a 36% rise over the January 1, 2002 figure. The *will to punish* is not mere blustering, it really and truly manages to fill up the prisons.¹⁴ In the present work, Bruno Aubusson de Cavarlay breaks down the components of this new prison population inflation since late 2001.

Dehumanization

As reflected in repeated statements by Nicolas Sarkozy and his entourage since 2002, the new safety policies apparently rest on a conception depicting offending as either unavoidable (to the point of genetic determinism for pedophilia) or a rational choice from which offenders may be dissuaded by the threat of punishment. Whence, for example, the saying often heard when the law on the prevention of juvenile offending was voted in March 2007: “The best prevention is punishment.”

Similarly, on the recurrent problem of recidivism, governments significantly make no use of studies in all European countries showing that these problems are not necessarily insurmountable and that follow-up of sentenced offenders inside and outside of prison as well as probation policies¹⁵ are the key to success, but all obviously demand resources in man-

power for psychological and social assistance. The legislative trend in recent years has mostly consisted in lengthening detention periods to make sure that recidivists are ejected from social life for as long as possible.

At any rate, the personality, history, and trajectory of offenders are no longer judged worthy of interest. This dehumanizing analysis of behavior produces a logic of “risk management” with considerable implications for safety policy and the management of the justice system.

As for safety policies, dissuasion is the main supposed asset of video cameras. This technique is spreading throughout France, most profitably so for the firms that market them. It appeared on the agenda of a great number of candidates for the March 2008 municipal elections. Yet, as Eric Heilmann shows here, there is more myth than science in the idea that video cameras are a tool for both dissuasion and coercion. The height of dehumanization is reached with the suggestion that schools be equipped with them rather than staffed with people capable of watching and supervising children. A similar myth of biometrics as all-powerful and allegedly infallible is now leading to the generalization of that population control technique, as Pierre Piazza points out here.

Another facet of dehumanization is the evident categorical refusal of Nicolas Sarkozy and his entourage to revert to neighborhood policing, since 2002. Christian Mouhanna’s paper clearly shows the ideological dimension here, the fact that this refusal goes against all evidence, disregards the positive evaluations by scholars, so as to call for a sort of generalized order-maintenance policy. Every time a riot occurs we are reminded

that the constant deterioration of relations between the police and the population is a factor in the distress affecting working-class neighborhoods, but to no avail. To the contrary, the option of showing muscle is deliberately maintained, and militarization of the police is consistently reinforced in speech and acts. Away with neighborhood policing, welcome the drones... Indeed, Mathieu Rigouste's paper makes it clear that drones are not mere technological gadgets, tested to impress people, but rather, a sign of the militarization inherent in a particular doctrine of "internal security" which is new in name only inasmuch as it applies to derelict neighborhoods the ideas and practices inherited from our military and colonial history.

As for the justice system, the evolution observed since 2002, although definitely an extension of the trend begun in the 1990s, has accelerated it sharply. Philip Milburn sums up the many dimensions of the new management of the justice system, of a kind, attempted by governments in recent years. Under the pretext of modernization, rationalization, and gains in efficiency and speed, tremendous pressure is exerted both on the dispatching options of public prosecutors and on judges' decisions. Summary procedures flourish, "real-time treatment" is demanded, and soon we will be hearing about "on-the-spot" treatment. This accentuates a trend already at work in large cities where courts, swamped by a massive case load, increasingly handle it in production-line fashion.¹⁶

Disciplining

Next, the "back to law and order" ideology develops deliberate disciplinary action through threat of punishment. The "modern" idea is to disseminate the good old fear of being

caught. Belief in its efficacy is accrued by what the government deems its successful (and highly profitable—it brings in around 500 millions euro to the state in 2007) testing on drivers, with the new “Automatic surveillance and punishment” system.¹⁷ This is true, but it comes at what may be considered an exorbitant (social) cost. There is no denying the validity of a policy aimed, successfully, since the 1970s, at reducing the number of dead and injured on the roads, but the blind use of coercion may create as many problems as it solves.¹⁸ Be this as it may, according to the government disciplining is a great success, as proved by the drop in offending since 2002, obtained by Nicolas Sarkozy thanks to his “political resolve” and to the introduction of “new management of safety.” My own contribution to this book shows this to be a fallacy: the “drop in offending” results more from the disciplining of the statistics-producing police and gendarmerie departments than from the disciplining of offenders... Moreover, I show that improvements in “police performance” (that is, elucidation and police custody) are also due to the priority given to those cases most “profitable” in statistical terms, such as the control of joint-smokers and the hunt for illegal aliens. As Serge Slama shows in his contribution, this pursuit of illegal aliens also serves the “new” immigration policy, with its quantitative goals imposed on prefects and police forces, and its consequences on administrative holding procedures, which are increasing in number and in length of stays, to the point where the Cimade, an NGO assisting detainees, now speaks of a “logic of internment.” “Real” offending continues as usual, while police officers and gendarmes obliged to do this sort of work are often the first to be outraged, in that they are increasingly aware of their obliga-

tion to prefer quantity to quality, and to give the government's political objectives priority over local safety problems.¹⁹

Incidentally, while many of those officers had been attracted and motivated by the policy of Minister of the Interior Nicolas Sarkozy when he first took office in 2002, a great deal had changed by the time he left that position. This is evidenced by the results of the November 2006 police union elections, which were not good for those unions that still supported the minister,²⁰ as well as by the many demonstrations of discontent among police officers complaining about “the pressure of the numbers game” which deflects them from pursuing “true” offenders and is beginning to “make life in the police rotten,” according to the police officers’ unions.²¹

Desocialization

Desocialization, in this context, may be simply defined as a refusal to acknowledge that social problems amplify the mechanisms producing exclusion, deviance and offending, as well as a refusal to analyze the reasons behind behavior that “disturbs public order” as the expression goes.

Do the homeless disturb decent citizens with their begging and dogs? Does their boisterousness occasionally mar the silence shrouding that private, self-centered decency? No problem, an offense is created— “aggressive begging”— to try to make those people realize the need to kowtow and lower their eyes when seeking charity. The point is not to combat dire poverty, but to reduce its visibility to a minimum.

Do prostitutes clutter some boulevards a bit too near the posh neighborhoods? No problem, they and their customers

are threatened with more frequent prosecution, which simply obliges them to be less conspicuous. Procurers, on the other hand, are apparently not bothered.

Is there wholesale rioting in neighborhoods affected by ghettoization, in the fall of 2005, then more local rioting, as in Villiers-le-Bel in November 2007? No problem. There will be no support for a parliamentary investigation, absolutely no questioning of institutional functioning, and complete silence about the accumulation of economic and social problems feeding the ghettoization process.²² The claim will be that these are merely disturbances fomented by delinquents and “hoodlums” manipulated by subversive groups, who “take their own neighborhoods hostage.” The only response is to send troops in and to promise “exemplary punishment” of rioters. Like in the good old days...

These are bad times for revolting and defying a state, its leaders and its institutions, which must retain their good conscience. Or else you must do so discreetly. We note, for instance, that white collar—economic and financial—crime represents an amazing exception to the rule of “zero tolerance”, since in this case, as opposed to other kinds of offending, the government alleges “modernization” to partially decriminalize offending.²³

Decline of the ideas of rehabilitation and social integration of offenders, replaced by punishment and risk management, sacralization of victims, dramatization of crime and moralization of political discourse, emergence of a new brand of penal populism, introduction of managerial tools for handling flows, increased recourse to detention—all these components of the “new culture of control” evidenced by David Garland in the

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United States and England ²⁴ are increasingly found in France, although many professionals and some intellectuals try to resist them and explain to their fellow-citizens that those new trends of punishment and control do not have any significant effects on crime.

NOTES

1. I thank Helen Arnold who has translate most of those papers.
2. D. Kalifa, *L'encre et le sang. Récits de crimes et société à la Belle Époque* (Paris: Fayard, 1995).
3. M. Mohammed, L. Mucchielli (eds.), *Les bandes de jeunes, des "Blousons noirs" à nos jours* (Paris, La Découverte, 2007).
4. J. Ferret, C. Mouhanna (eds.), *Peurs sur les villes : vers un populisme punitif à la française ?* (Paris: PUF, 2005).
5. E. Macé, "Le traitement médiatique de la sécurité" in L. Mucchielli, Ph. Robert (eds.), *Crime et sécurité : l'état des savoirs* (Paris: La Découverte, 2002), 39.
6. Ph. Robert, M.-L. Pottier, "Les préoccupations sécuritaires : une mutation ?", *Revue française de sociologie*, 2 (2004), 212-214.
7. B. Harcourt, *Illusion of Order: The false promise of broken windows policing* (Cambridge: Harvard University Press, 2001).
8. C. Lazerges, "De la fonction déclarative de la loi pénale", *Revue de sciences criminelles et de droit pénal comparé*, 1 (2004), 194-202.
9. L. Van Campenhoudt, "L'insécurité est moins un problème qu'une solution", *Revue de droit pénal et de criminologie*, 6 (1999), 727-738.
10. V. Le Goaziou, L. Mucchielli, *La violence des mineurs en question*, (Nîmes, Champs social editions, 2009).
11. AFP (Agence France Press), January 9, 2008.
12. J. Simon, *Governing through Crime. How the War on Crime Transformed American Democracy and Created a Culture of Fear* (Oxford: Oxford University Press, 2007).
13. C. Camus, *La guerre contre le terrorisme. Dérives sécuritaires et dilemme démocratique* (Paris: Félin, 2007); L. Bonelli, D. Bigo, T. Deltombe (eds.), *La guerre contre le terrorisme et ses ombres* (Paris: La Découverte, 2008).
14. D. Salas, *La volonté de punir. Essai sur le populisme pénal* (Paris: Hachette, 2005).

- 15 See the September 24, 2003 Council of Europe recommendation and A. Kensey, *Prison et récidive* (Paris: A. Colin, 2007).
- 16 B. Bastard, C. Mouhanna, *Une justice dans l'urgence. Le traitement en temps réel des affaires pénales* (Paris: PUF, 2007); A. Christin, *Comparutions immédiates. Enquête sur une pratique judiciaire* (Paris: La Découverte, 2008).
- 17 J.-G. Padioleau, *La société du radar* (Paris: L'Harmattan, 2005).
- 18 Between 2002 and 2007, 22 million offenses with loss of driver's license points have been handled, nearly 40 million points withdrawn, and hundreds of thousands of licenses invalidated. What offenses are sanctioned here? Far from the stereotype of the reckless driver racing at breakneck speed, the records show that 80% of these offenses are for speeding, and 85% of those are for an excess of less than 20 km/h. In other words, punishment is mostly for minor speeding offenses, unwitting as often as deliberate because drivers are not machines. As for drinking, now that anyone who drinks two glasses of wine at dinner is automatically an offender (and allegedly dangerous), how many French people could still get behind the wheel if checks became systematic?
- 19 J.-H. Matelly, C. Mouhanna, *Police : des chiffres et des doutes* (Paris: Michalon, 2007).
- 20 See *Libération*, November 25, 2006.
- 21 See "Des policiers manifestent à Marseille contre la pression du chiffre" (AFP, March 27, 2007), the statements of leaders of a minority police union (the UNSA) (*Libération*, June 4, 2007) and even of leaders of Alliance Police Nationale, the largest union (*Le Parisien*, November 21, 2006).
- 22 L. Mucchielli, V. Le Goaziou (eds.), *Quand les banlieues brûlent. Retour sur les émeutes de novembre 2005* (Paris: La Découverte, 2nd ed. 2007).
- 23 *Le Monde*, September 11, 2007. We also note that genetic fingerprinting is now extended to all felonies and misdemeanors... except white collar crime.
- 24 D. Garland, *The Culture of Control. Crime and Social Order in Contemporary Society* (Oxford: Oxford University Press, 2001).