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Assessing private security accountability: a study of Brazil

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This article analyses the functioning of the control exercised by private security companies operating in a country barely explored by the literature – Brazil. The hypothesis guiding this study is that internal control systems are set in place when security companies perceive the existence of an institutional environment in which actors exercising external control over private security are capable of making behaviour that fails to comply with public norms more costly to companies than the investments required for setting up internal control systems to prevent such behaviour. In order to assess this hypothesis, two case studies were conducted focusing on two contracts for the provision of security services. Analysis of the cases showed that the way private security organisations hold their employees accountable is strongly affected only by the external control exercised by clients hiring security services on the market. When clients remunerate service provision contracts adequately and are interested in law-abiding conduct, conditions are generated that are conducive to highly structured internal control systems in line with public rules. However, when clients fail to set such standards, the study showed that the external control emanating from public sources is not capable of acting satisfactorily as a last line of defence and course correction. These findings support the pessimistic views present in the scholarly literature that contend that private policing activities are characterised by governance and accountability deficits.

Keywords: accountability; private security firms; private policing

Introduction

The policing system of Western societies underwent profound changes in the second half of the twentieth century (Bayley and Shearing 1996, Kempa *et al.* 1999, Jones and Newburn 2002). One of the most visible faces of these changes is a rise in policing activities performed by the private security industry (Kakalik and Wildhorn 1971, Shearing and Stenning 1981, Cunningham and Taylor 1985, South 1988, Johnston 1992, Jones and Newburn 1998). The large-scale resurgence of policing provided by private organisations prompts concerns regarding these activities' accountability. Understanding how and to what extent private security firms and professionals are held accountable is a key issue for democratic societies that authorise private guards to provide policing, an activity characterised by the permanent tension between the right to use sanctions to impose conducts and the duty to respect individual rights.

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Private security firms and professionals can be held accountable by multiple sources of control, herein conceived of as the capacity a given actor A has of influencing or directing the behaviour of a given actor B by means of incentives, restrictions or penalties. Internally, organisations can use several mechanisms to ensure that their staff will behave according to certain standards. Private security can also be held accountable by clients who hire policing services on the market, by security industry associations, by society through the media and dissatisfied clients and by the State through the judicial system and a regulatory body. This multiplicity of sources of control has seldom been the subject of research by the scholarly literature. Most research has either just analysed State control by regulation (Prenzler and Sarre 1998, De Waard 1999, Cukier *et al.* 2003, Zanetic 2005, Button 2007, O'Connor *et al.* 2008, Lopes 2011) or approached the theme from a more normative than positive angle (Loader 2000, Bayley and Shearing 2001, Shearing and Wood 2003a, 2003b, Burbidge 2005, Zedner 2006). Just a small part of the literature has explored the functioning of the complex accountability structure governing private security (Stenning 2000, Davis *et al.* 2003). Whereas regulatory and normative-driven studies conclude that private policing activities suffer from governance and accountability deficits, exploratory works share the less pessimistic hypothesis that, despite the shortcomings of State regulation, the other forms of control governing private security are potentially capable of rendering private policing as accountable as public policing. Yet this hypothesis still lacks thorough empirical assessment, particularly in contexts other than those of Europe and North America.

With a barely explored country as the locus of analysis, Brazil, this article analyses how private security internal controls function. The most important issue regarding private security accountability is to find out whether it is possible to ensure that private policing can be carried out in compliance with public rules. The only way to ensure that these private security services adhere to rules and regulations is to make sure that such rules are made meaningful to and adopted by the professionals performing private policing activities. Those studying policing, both public (Manning 1977, Punch 1983, Bayley 1985, Bittner 1990, Neto 1999, Monet 2001) and private (Davis *et al.* 2003), agree that the mechanisms best suited to achieve such results are located inside the organisations themselves. Hence, the purpose of this article is to understand the conditions whereby private policing organisations control their staff so that they comply with the public norms regulating the provision of private security services in Brazil. This article hypothesises that such internal control takes place when security firms perceive the existence of an institutional environment in which actors exercising the external control of private security activities are able to make behaviour deviating from public norms more costly for private security organisations than the investments needed to structure internal control systems designed to prevent such behaviour.

In order to assess this hypothesis, two case studies were conducted focusing on contracts for the provision of security services. Analysis of the cases found that the way security firms internally control their staff is strongly affected by the external control exercised by clients hiring security services on the market. When clients remunerate security contracts adequately and are interested in respectful conduct, conditions are created for the existence of highly structured internal control systems that are also rule compliant. The contrary is also true. If clients fail to adequately remunerate contracts and to expect rule-abiding behaviours, the result tends to be poorly structured internal accountability systems and non-compliance with public norms. Concerning the latter point, the study showed that, in most situations, the external control exercised by the

regulatory body, the judiciary and the media is not capable of acting satisfactorily as a last line of defence and course correction. These findings support the pessimistic views present in the specialised literature and their argument based on the existence of governance and accountability deficits in private policing activities.

Analytical model

The internal control systems adopted by private security companies can be categorised into three types: action controls, personnel controls and cultural controls. Action controls are materialised in the form of three mechanisms that make it possible to hold private security officers accountable for their actions. These mechanisms include: (1) the setting in place and communication of desired (and undesired) behaviours, (2) supervision and (3) the awarding of prize and punishment to good and bad behaviour, respectively. Personnel controls are those designed to increase the likelihood that the staff will perform, satisfactorily and on their own, the tasks required by the organisation. Personnel controls also comprise three mechanisms: (4) staff recruitment/selection, (5) training and (6) provision of adequate resources for the performance of private policing activities (uniforms, lethal and nonlethal weapons, metal detectors, etc.). Lastly, cultural mechanisms are those that seek to shape the organisational culture for the purpose of generating behaviours in conformity with the objectives of the company. According to Merchant and Van Der Stede (2007), the main cultural mechanisms of control are the (7) codes of conduct, which may provide a framework of references to be internalised, so that the staff will monitor their own behaviour (self-control) and (8) team awards, which function as incentives for group members to control each other (peer control) so that the group may perform well and all members may be rewarded.

These various mechanisms form a complex administrative system that security companies can leverage to make their staff behave according to company interests. Yet the setting in place of structured internal control systems is not a sufficient condition for private security compliance with public standards. For that, the various mechanisms that make up the internal control systems must be aligned with the public norms and promote internalisation of the principles provided for by these norms. In Brazil, these norms are principled on human dignity, public relations, end-user satisfaction, prevention and patrolling, proactiveness, technical and professional improvement of staff and compliance with labour-related provisions (see Federal Police Ordinance 387/2006-DG/DPF). The degree to which private security firms structure their internal control systems and align them with these norms can be combined in different ways, thus resulting in internal control systems with diverse characteristics. The typology in Table 1 was created for the

Table 1. Typology for internal control systems.

		Structuring	
		Low	High
Alignment	Low	Type A	Type C
	High	Type B	Type D

purpose of allowing an empirical analysis of internal control systems on the basis of their level of structuring and alignment.

Type D (high structuring/high alignment) represents the situation in which, from the point of view of control, there is full conformity between private security services and the public interest. This case would occur in those service provision contracts in which the mechanisms of control are highly formalised, developed and focused on conduct that is in conformity with public rules and expectations regarding the provision of private security services. Type C (high structuring/low alignment) indicates a situation in which the security company controls its staff for purposes that are not in line with the public interest. Cases like these are a source of great concern because misconduct does not stem from individual wrongdoing but, rather, from the collective engagement of a company in actions conflicting with the principles guiding private security in Brazil. Type B (low structuring/high alignment) indicates a situation in which the mechanisms of control are poorly formalised and developed, yet guiding staff to solely act in compliance with public rules. Given the importance of control mechanisms in driving conduct that is responsive to guidelines emanating from the company, the result of such combination might be harmful for the public interest. Lastly, type A (low structuring/low alignment) indicates a situation in which there is neither orientation by the company for security personnel to behave in line with public rules and expectations regarding the provision of security services, nor any formalised and organised control mechanisms. As in cases B and C, this case is also troubling from the point of view of the public interest. In the absence of guidelines for security personnel to act within the law, and in the absence of formalised and organised mechanisms of control, private policing is bound to be hardly professional and the likelihood of misconduct higher. In this type of situation, security staff would be governed by their discretion and would be entirely free to make decisions on how to interact with the public.

This study hypothesises that highly structured and aligned internal control systems are generated in conditions in which the cost of misconduct in relation to public norms is higher than the cost for setting up and aligning internal control systems capable of preventing deviant behaviour. These conditions would be made possible in an institutional environment characterised by the existence of external controls (explanatory variables) capable of encouraging and/or constraining companies to structure internal control systems aligned with the public interest (variable to be explained). Five actors or forms of external control can contribute thereto: external control by trade associations, by the customer, by State regulation, by the judiciary branch and by the media.

Control by trade association can contribute towards the expected result in two ways basically. The first one consists in prodding companies to develop internal control systems by recognising or awarding certification to those organisations whose internal control mechanisms are well developed or whose practices may favour the development of such mechanisms. The second one is to increase the cost for misconduct by establishing disciplinary codes enabling trade associations to impose sanctions on companies whose employees have violated norms and public expectations related to the provision of private security services. The problem with this form of control is that it usually operates on a voluntary basis (except in co-regulatory arrangements), that is, it is only binding for the members of a trade association. In the case of Brazil, where control by a trade association is exercised mainly by the employers' associations representing security companies across the country's 27 states (SINDESPs), 2004 data show that only 36% of the companies legally established had joined their respective associations.¹ In states like Espirito Santo

this percentage rose to 70%, yet in states like Rio Grande do Sul membership was under 17% (FENAVIST – Federação Nacional das Empresas de Segurança Privada e Transporte de Valores [National Federation of Private Security Companies] 2005). When coverage is limited, the only option available for trade associations is to report irregularities by non-members and press for sanctions to be imposed.

The client is another important source of external control over private security companies. In principle, this form of control has the greatest potential for driving the structuring and alignment of internal control systems. On one hand, service takers may provide an important incentive for the structuring of internal control mechanisms by accepting to share the structuring costs incurred by private security companies by adequately remunerating service provision contracts. On the other, clients may raise the cost for misconduct because they are able to impose powerful contract-related penalties on security company guards whose behaviour fails to comply with their demands – eventually, by cancelling services for breach of contract or seeking another company on the market. However, it is worth considering that external control by customers only exists in situations in which private security services are executed by specialised organisations providing services to third parties. In the case of Brazil such organisations are known to be the leaders in the private security sector. In 2011, for example, approximately 93% of the regularly hired, active duty private security employees were working for the contractor security industry and only 7% for the in-house segment.

State- and society-related sources of external control can also contribute directly or indirectly for the structuring and alignment of security companies' internal control systems. State regulatory capacity to exercise control is based on the power the State has to create rules and impose penalties on organisations either hiring or providing security services that violate human rights principles. Although the State cannot afford to regulate all the existing private policing activities (Stenning 2000), the biggest problem of this form of control seems to be less related to coverage than to the State's capacity to enforce these rules (De Waard 1999). This has also been the criticism against State regulation over the private security sector in Brazil, incumbent upon the Federal Police since 1995 (Lopes 2011). At any rate, the Federal Police has the power to impose administrative penalties on security companies (warnings, fines ranging from BR\$ 532 to BR\$ 5320, temporary suspensions and/or cancelling of licences) and on financial industry clients (warnings fines ranging from BR\$ 1064 to BR\$ 21,280, and temporary closure of branches). Between 2009 and 2011, the Federal Police punished 33 companies by revoking their operation licences, warned 143 and imposed 1762 fines worth nearly BR\$ 5 million. Over the same period, 44 financial institutions were temporarily closed and 2237 received fines worth BR\$ 31 million.

The judiciary branch can also raise the cost for misconduct for companies hiring or providing security services, as in many countries organisations are held liable and convicted for damages caused by private security staff. Still, the functioning of this type of control depends largely on a society's rights awareness, the credibility of the judiciary and the litigants' capacity to pay lawyers and produce evidence, conditions which are not always available for significant portions of the population. In Brazil, the Civil Code allows security services takers and providers to be held liable for abusive or irresponsible conduct by staff. Between 2009 and 2012, Ordinary Justice, with jurisdiction over the private security industry, ruled a yearly average of 12 million non-criminal sentences, according to data made available by reports Justice in Numbers (CNJ - Conselho Nacional de Justiça [National Council of Justice] 2013).² It is not possible to identify how many of these decisions were related to civil liability of takers and providers of private

security services, but there is reason to believe that the lawsuits in which these actors appear as defendants follow litigation standards differing from those prevailing in Brazil, which has one of the highest lawsuit per inhabitant ratios in the democratic world (Sadek 2004).

Lastly, the media can also impose penalties of a reputational nature on companies and their clients by reporting misconduct cases, which might lead to negative publicity capable of affecting the image of the security companies before the market hiring these services and even of these services takers before their customers/users. The media also plays an important role within the institutional environment in which private security operates, since its coverage can also trigger action by the other forms of external control. However, as media coverage depends on the critical sense of journalists in perceiving certain behaviours as irregular, scandalous or shocking, it is usually restricted to serious and/or persisting misconduct cases, those affecting people whose social status or power to pressure are higher. Indications are that this critical sense has been shared by Brazilian journalists. A survey conducted in 2012 by the association representing São Paulo state security companies (SESVESP), for example, showed that journalists were significantly more critical in relation to the private security industry than to clients, politicians and members of organised civil society – about 60% of journalists had no confidence in security companies, while among other groups this percentage was around 33% (SESVESP – Sindicato das Empresas de Segurança Privada, Segurança Eletrônica, Serviços de Escolta e Cursos de Formação do Estado de São Paulo [State of São Paulo Private Security, Electronic Security, Armed Escort Services and Capacity-building Program Association] 2012). Data gathered from Internet news portal Globo.com, which belongs to Brazil's largest broadcasting group, confirm that the media has exercised control over the private security sector, whose wrongdoings were the subject of 119 stories between 2009 and 2011 – on average, 3.3 stories every month.

Figure 1 summarises the model and shows its analytical variables, the direction of the effect and the potential interactions between the variables.

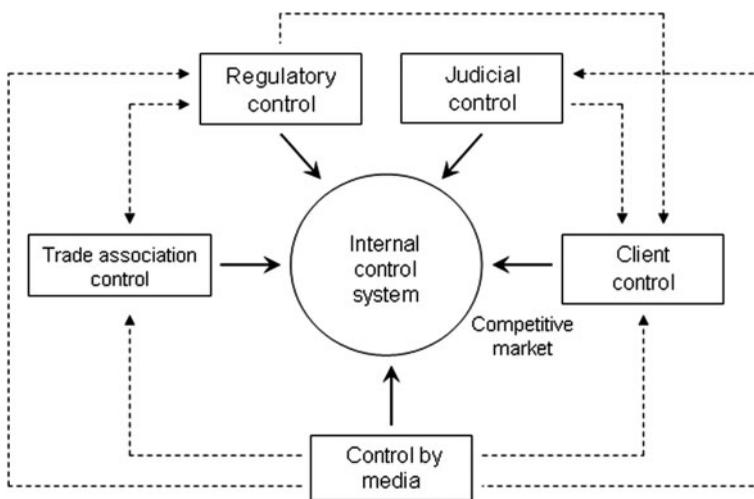


Figure 1. Analytical model for the study of private security accountability.

At the core of the model is the internal control system, i.e., the variable to be explained. Around it are the explanatory variables, which show that external control over private security can come from the bottom (society/media), the side (customer and associations) and from the top (State). The effects of the explanatory variables on the variable to be explained are represented by the solid arrows, while the interactional effects between explanatory variables are represented by the dashed arrows. As shown by the dashed arrows, control by the media can affect client control and set all remaining forms of external control into motion. The external controls exercised by the judiciary and the regulatory framework can affect client control, whereas control by industry associations can be set in motion by the regulatory control or by means of denouncements. Whatever the case, the outcome is an institutional environment marked by interactions that reinforce private security accountability. The solid arrows, in contrast, indicate that the structuring and alignment of these internal control systems can arise from the effect of the different explanatory variables, singly or in combination. A client might simply wish to structure and align internal controls in order to control and make sure its security guards will interact with the public in strictly legal terms, cordially and respecting civil rights. This, in turn, might have been triggered either because the client wished it so, or because the client was penalised by the regulatory body, got negative exposure on the media and/or was sentenced to pay compensation for inadequate security agent behaviour. Notwithstanding the client's desire for security guards to interact with the public in a respectful manner, private security companies can demand this behaviour from their staff in order to avoid legal penalties by the regulatory body, contract penalties, industry association penalties, negative exposure on the media and/or costs incurred as compensation for damages. Thus, the structuring of internal controls by a private security company can be prompted by a single variable or by a combination of two or more explanatory variables, shaping a model principled on equifinality (multiple convergence approach).

Methodology

Research design and case selection

In order to assess the analytical model above, I conducted two case studies focusing on two contracts for the provision of security services to a financial-industry client (armed security) and to a retailer (unarmed security). Choice for the cases was underpinned by the search for variation in explanatory variables across cases (synchronic variation) and within cases (diachronic variation). The contracts selected were part of a single security company's portfolio, hereinafter Private Protection for the purpose of identification. Service provision contracts are identified by fictitious client names. [Table 2](#) provides some important data on the contracts studied. [Table 3](#) summarises the layout of the explanatory variables and the expected outcomes for the configuration of the internal control system.

As shown in [Table 3](#), private security firm Private Protection and all of its contracts were subject to the association representing private security companies in the state of São Paulo (SESVESP). More specifically, the company was subject to penalties (warnings, fines or closure) set forth in the entity's Code of Ethics and Discipline and to the norms of the Security Certification (CRS, from the Portuguese Certificado de Regularidade em Segurança), a seal launched by the association in 2002, and awarded to Private Protection in that same year, in an attempt to signal to the market that a company was capable of

Table 2. Information on the contracts studied.

	Mendes Bank	Berguer Retailer
Start of contract	1980	2004
# of checkpoints at client premises	1031	47
# of checkpoints under contract	414	37
# of professionals hired	959	69
# of professionals per position	2.32	1.86

'providing good services'. The remaining external controls were specific to the contracts studied and call for further contextualisation.

Berguer is a school, office and IT supplies chain, which had had theft problems in its Distribution Centre. In order to address the situation, in 2004 Berguer took on, for a price deemed adequate, security guards from Private Protection to search the Distribution Centre staff. At the time the study was held there was no State regulation on this type of procedure. Accordingly, Private Protection structured an internal control system whereby the security guards deployed in conformity with the Berguer contract were to carry out search procedures that included daily body searches and searches of personal belongings, thus prompting an internal control system akin to Type C. Yet from 2009 on, Berguer began to face labour-related lawsuits filed by staff claiming the searches were a violation

Table 3. Configuration of the explanatory variables and predictors.

	Berguer Chain (2004 to 2009)	Berguer Chain (2009 to 2011)	Mendes Bank (2004 to 2009)	Mendes Bank (2009 to 2011)
Trade association control	Operated on company			
Judicial control	Did not operate	Operated on client	Did not operate	Operated on company and client
Media control	Did not operate	Did not operate	Did not operate	Operated on company and client
Regulatory control	Does not operate	Does not operate	Operates on company and client	Operated on company and client
Client control	Demands violating behaviours Remunerates contract adequately	Demands adequate behaviours (prediction) Remunerates contract adequately	Demands adequate behaviours Remunerates contract poorly	Demands adequate behaviours Remunerates contract adequately (prediction)
Internal control	Type C	Type C → Type D (prediction)	Type B	Type B → Type D (prediction)

of their privacy and honour. By the end of 2011 the retailer had a record of seven lawsuits of this kind. What I am seeking to assess with this case is the capacity of the external control represented by the judiciary to promote the realignment of an internal control system. In conformity with the analytical model above, the prediction is that the various lawsuits filed against Berguer forced this client to change its demand for invasive body searches, thus bringing about a realignment in the internal system controlling the behaviour of the on-site security guards deployed at client's premises as provided for by contract. In terms of the typology presented earlier, a Type-C to Type-D change in the internal control system is to be expected.

The Mendes case contrasts with the Berguer case in several aspects. Regulation by the regulatory body (Federal Police) regarding how security services should be delivered was stricter as compared with the retail chain studied. More specifically, this contract included public norms mandating how security guards should interact with the public and carry out body searches. According to Federal Police Ordinance 387/06-DG/DPF, '[the] financial establishments using security doors must possess portable metal detectors to be used in exceptional cases when personal search is necessary', or be subject to fines ranging from BR\$ 10,641 to BR\$ 21,282. Other rules were also laid down detailing norms of conduct, including how security guards should interact with the public at the revolving door during the process of controlling access to bank branches, though not providing for punishment in case of misconduct. The service provision contract with Mendes was also unlike Berguer's, in that it was under the auspices of a client demanding adequate conduct by security guards, yet remunerating the services at a price considered low by the security company. According to Private Protection's vice president, Mendes Bank was a 'predator' that took advantage of its position as a big taker of security services in order to pay, in comparison with other Private Protection's clients, below average fees for security services. These circumstances led to a service provision contract exhibiting a highly aligned, yet poorly structured, internal control system (Type B). Despite these characteristics, the Mendes contract faced no major problem of loss of control between 2004 and 2009. However, lucky days were over when, in 2009 and 2010, Private Protection security guards shot at some unarmed citizens after a discussion caused by a jammed revolving door giving clients access to retail branches, in a typical case of misconduct associated with poorly structured internal control systems: psychologically unprepared security guards, flawed supervision failing to detect occupational stress levels, inadequate personnel training programme and so forth. These misconduct incidents triggered strong reactions from two external controls: the media and the judiciary. The episodes were widely covered by the local and national media, including a story on the 2010 case that was aired on a Rede Globo television network Sunday night programme, *Fantástico*, with high national audience ratings. As regards the judiciary, three lawsuits were filed seeking compensation for damages to victims caused by the Private Protection security guards working at Mendes. These circumstances render this contract an adequate case to assess the role of external controls in imposing higher costs for individual security agent misconduct and in driving a better structuring of internal control systems. The prediction is that the external controls triggered by the misconduct incidents acted to constrain Mendes Bank and Private Protection to improve internal control mechanisms over personnel providing on-site security services to the bank, thus creating the conditions for the adoption of a more structured internal control system. Drawing again on the typology previously described, for this case the internal control system is expected to change from a type B to a type D.

Gathering of evidence

One of the key advantages of case studies is the possibility of drawing inferences from multiple sources of data, a procedure that Yin (2009) called ‘triangulation of data’. The gathering of evidence for the study of the cases selected was guided by this procedure. Evidence was collected in the period from October to December 2011 from four kinds of sources: interviews, documents, corporate records and direct observation. Twenty-two interviews were carried out, adding up to 34 hours of semi-structured conversations with several staff involved in the management or delivery of the security services analysed. Among those interviewed were the Private Protection’s vice president plus the company’s counsel in charge of the company’s civil law area; the COO; the quality manager and the quality analyst; the investigations manager; the human resources manager; the coordinator and the psychologist of the personnel recruiting and selection area; and the managers, coordinators, training programme instructors and security guards of the contracts studied.

These interviews were complemented by analysis of 26 documents containing information on the general characteristics of Private Protection and the clients focused, the conduct expected from security personnel, supervision procedures, reward and punishment policy, training and recruiting and screening of personnel. Simultaneously, a wealth of data was collected including Private Protection files on its security staff, records of the penalties imposed and training programme attendance records. Lastly, direct observation was carried out of two training programmes administered to the security guards of the contracts studied. One of the observations was on-site during a training session. The instructor and the guards did not know of the researcher’s presence, which was only revealed during the interviews at the end of the training. The other observation was of two video classes that were part of the material used to train the security guards on ‘rights, duties and misconduct’ and on ‘progressive use of force’. Table 4 summarises these observations, and the sources and techniques used.

Table 4. Gathering of evidence.

Points observed	Sources of evidence	Evidence gathering techniques
Profile of company and contracts studied	Private protection’s Vice-President; Central Bank of Brazil; Private Protection’s and case clients’ websites; and publicity and disclosure materials	Analysis of documents and semi-structured interviews
Impact of external controls on operations management	Mendes’ Corporate Security Superintendence Manager, Private Protection’s Vice-President, Counsel in charge of civil area; Director, Managers, and Operations Coordinators	Semi-structured interviews
Setting and communication of behaviours	Norms and Procedures Manuals and Improvement Plans for the cases studied; Private Protection’s Vice-President, Quality Analyst; Director, Managers, Guards and Operations Coordinators	Analysis of documents and semi-structured interviews

Table 4 (Continued)

Points observed	Sources of evidence	Evidence gathering techniques
Supervision	Supervision reports and “Integrated Management System Procedures” – Control and Execution of Operations Services; Private Protection’s Vice-President, Quality Analyst, Supervisors/Inspectors, Guards, Director, Managers, and Operations Coordinators	Analysis of documents and semi-structured interviews
Personal rewards and penalties	Records of penalties; “Document PLR N° 001/2009-SESVESP/FETRAVESP” Private Protection’s Head of Investigations Department, Directors, Managers, and Operations Coordinators	Descriptive statistical analysis; analysis of documents and semi-structured interviews
Personnel recruiting and selection	Personnel records; “Administrative Procedure and Human Resources: Recruiting and Selection of Candidates”: Private Protection’s Personnel Recruiting and Selection General Coordinators, Pshychologist in charge of personnel selection; Guards and Human Resources Manager	Descriptive statistical analysis; analysis of documents and semi-structured interviews
Training programmes	Records of training programme attendance; in-class training; training plans; training contents and report; Private Protection’s Vice-President, Quality Analyst, Training Instructor, Guards, Director, Managers and Operations Coordinators	Descriptive statistical analysis; direct observation; analysis of documents and semi-structured interviews
Provision of resources/equipment	Private Protection’s Vice-President, Director, Guards, Manager, Operations Coordinators	Semi-structured interviews
Code of conduct	Norms and Procedures Manuals; Private Protection’s Vice-President, Quality Analyst, Director, Guards, Operations Managers, Coordinators	Analysis of documents and semi-structured interviews
Team rewards and penalties	Private Protection’s Vice-President, Quality Analyst, Director, Guards, Operations Managers, Coordinators	Semi-structured interviews

Findings: configuration of internal control systems

Counter to the initial predictions, the study of the configuration of the internal control systems for the cases selected failed to find the expected changes. The Mendes case study showed that the internal control system of the security personnel deployed by contract retained the same configuration after the 2009 and 2010 cases of misconduct: a low structuring level and a high alignment level. As summarised by [Figure 2](#), the security

Internal control mechanism		Mendes Bank		Berguer Chain	
		Structuring	Alignment	Structuring	Alignment
Action controls	Desired behaviors	No change low	No change high	Change low ⇔ medium	No change low
	Supervision	No change low		Change medium ⇔ high	
	Rewards and penalties	Change low ⇔ medium		Change low ⇔ medium	
Personnel controls	Recruiting and screening	No change medium		No change medium	
	Training	No change low		Change medium ⇔ high	
	Resource provision	Change low ⇔ medium		No change medium	
Cultural controls	Codes of conduct	Not in place		Change none ⇔ medium	
	Team awards	Not in place		No in place	
Findings		Slight change type B		Change type A ⇔ type C	
Expected result		Change type B ⇔ type D		Change type C ⇔ type D	

Figure 2. Configuration of 2004/2011 internal control systems.

agents deployed by contract were oriented to address the public respectfully and cordially, yet cultural controls were lacking, while controls over security personnel actions were scantily developed: desired behaviours were communicated via manuals of rules and procedures that failed to incorporate and reinforce procedures designed to structure the interaction between security guards and citizens at the revolving door; supervision of positions was not as strict as that for the Berguer case (lower number of supervisors and less frequent visits); and the reward and penalty policy was highly arbitrary, notwithstanding Private Protection’s adoption of a Profit Sharing scheme in 2009, which was introduced in all the of company’s contracts and helped enhance reward and punishment mechanisms. Personnel controls were slightly more developed than action controls. Thanks to a regulatory body’s requirement that affected the whole bank security sector, since 2007 Private Protection made available for security staff delivering services at Mendes portable metal detectors for conducting less invasive searches and only in the exceptional situations authorised by the regulatory framework. Though the screening processes through which these security guards were hired were still minimal, they were capable of excluding people exhibiting a highly deviant personality in relation to the profile required for private policing activities. Still, nonlethal weapons were not supplied to the security guards and the supplemental training programmes were much less intensive and comprehensive than those provided to security personnel with Berguer – an average 127 minutes of training per security guard at Mendes, against 475 minutes for the security personnel with Berguer over the 2010/2011 period.

Predictions for the Berguer case also failed. Even after the court's ruling for damages, searches performed at the retailer's distribution centres continued to be carried out in an invasive manner. Instead of enhanced alignment of internal control mechanisms, structuring was stepped up. This change took place gradually starting in 2005, causing Berguer's security staff's internal control system to move from a former type A configuration to one closer to type C. Enhancement of internal control mechanisms occurred because of the company's rapid growth and the need to signal to customers that a well-structured and reliable organisation was on the market. These factors prompted the company to implement a 'quality policy' in June 2005, focused on procedural standardisation, the creation of codes of conduct, the monitoring of services, the staff's continuous capacity building, ultimately leading to an NBR ISO 9001:2000 certificate in September 2006. This policy affected several Private Protection service provision contracts, including the contract with Berguer, which thereafter came to include rules and regulations, manuals on operational procedures and codes of conduct for most of the staff, closer supervision and better organised and more intensive training. However, this same policy was not made effective with regard to contracts for services provided to banks, a fact that accounts for the differences in structuring levels of the internal accountability systems governing the security staff deployed at Mendes and at Berguer. In order to understand why this did not happen, it is necessary to leverage the aforementioned analytical model and analyse it in light of the findings.

Discussion: the impact of external controls

External control by client

The cases studied confirmed that the role of clients is decisive in bringing about enhanced structuring and alignment of internal control systems. Individual clients do not directly bring about changes in the structuring levels of internal control mechanisms, but do condition dissemination of these changes. Thus, they are a key intervening variable in understanding the differences in structuring levels between the two cases. Confirmation of the importance of clients as an external control was made possible through the quality policy set in place. As noted earlier, this policy failed to include the security staff deployed at Mendes Bank. And the main reason for that was that extending this policy for this client entailed additional costs that the security company could not afford to incur in without changing the contract's financial terms. Mendes, however, refused to remunerate the security service at prices high enough to enable enhanced internal control mechanisms for the security staff deployed in the bank's branches. Unlike Mendes, Berguer was considered a good client by Private Protection from the point of view of contract fees. By paying higher fees, Berguer made it possible for Private Protection to invest more in internal control mechanisms, especially training and supervision. This investment was materialised in the quality policy, which, upon implementation, further structured the control system of the security personnel deployed to fulfil the contract.

The importance of clients in aligning internal control systems was much bigger than that for structuring them. The cases analysed showed that clients were decisive for the degree of alignment of the internal accountability systems. The main internal accountability mechanisms used by Private Protection were designed to make its security staff behave as desired by the clients. Should the security personnel's desired behaviour be aligned with public rules and expected standards governing private security services, the expected result should be an aligned internal control system. Yet, should the desired

behaviours conflict with human rights principles and public relations, the result should most likely be an internal control system with a low alignment level. The contract for the provision of services to Mendes Bank provided an example of the first case. Treating the public with respect and cordiality, and conducting personal searches only in exceptional situations and by means of a portable metal detector, were demands expressed by Mendes in manuals of rules and procedures, in training programmes and/or by supervisors. Conversely, the contract for the provision of services to Berguer clearly showed that, when clients desire behaviours conflicting with human rights principles, internal control systems are expected to be configured that will seek to achieve this type of behaviour from security staff. As noted, Berguer demanded from the security guards deployed at its distribution centres that they should conduct invasive and systematic searches of its employees in the hope that such procedures would reduce losses caused by inside thefts. The searches demanded by Berguer not only conflicted with public rules and expectations but also with Private Protection's own company policies. The security company had a training module on body searching that recommended strongly against the procedures adopted by Berguer, as they were seen as violating the employees' honour and privacy. Enhancement Plans were also drafted by Private Protection with the aim of indicating alternative methods for damage/loss prevention to Berguer. Yet these actions were not sufficient to persuade Berguer to discontinue body searches. In light of its failed attempts, Private Protection included in the contract and in its own manuals of rules and procedures provisions stating that body searches were a demand made by the client and not company policy. This contract arrangement transferred any potential claims arising from body searches to Berguer, thus clearing the way for Private Protection to carry out the contract without any fear of damage compensation costs stemming from the behaviour adopted by its security personnel.

These findings show that clients conditioned and determined, respectively, the level of structuring and alignment of the internal control systems of the security staff deployed for the contracts studied. Ultimately we may say that the existence of highly structured and aligned internal control systems depend on whether the clients are willing to remunerate security services adequately and are interested in conducts aligned with public relations and human rights principles. The findings in the Mendes and Berguer cases also point to the fact that the employers' association, the regulatory body, the judiciary and the media as sources of external control were, as expected, not capable of driving changes in the internal control systems governing the security personnel deployed to meet the conditions of the contracts studied. Still, I find it necessary that the reasons why this failed to happen be further investigated. And it is also worth seeking to understand whether Mendes' interest in respectful conduct and Private Protection's heavier investment in the Berguer contract keep any relation with the control exercised by the Federal Police and the trade association, respectively.

External control by trade associations

As highlighted earlier, control by trade associations is materialised in two mechanisms: the CRS and the Code of Ethics and Discipline issued by SESVESP. The CRS is issued on a yearly basis to member companies with feasible costs and fully compliant with the labour law and the private security regulatory framework. Of the 398 security companies that were effectively operating in the state of São Paulo in 2011, only 61 had the CRS (15%). Private Protection had been part of this group of companies since 2002 and

leveraged this asset to justify higher-than-market prices. This marketing strategy was not effective with financial institutions, but was important for all of the company's other contracts. Thus, it can be said that SESVESP's policy of acknowledging best practices helped create the conditions for enhanced structuring of the internal controls ruling the conduct of the security personnel deployed at Berguer.

Yet, SESVESP's Code of Ethics and Discipline had no direct impact whatsoever on raising the cost for misconduct and driving the structuring and alignment of internal control systems for the cases studied. The Code of Ethics set forth members' duties, 19 types of offences for non-compliance with the industry's regulatory framework, corporate business conduct, cross-member relations and issues such as 'contributing to action contrary to the law or designed to infringe it', 'committing recurrent mistakes evidencing professional or business ineptitude' and 'proposing or accepting contract items whose legality might be challenged'. Applicable penalties ranged from warnings to member expulsion, to fines ranging between BR\$ 10,240 and BR\$ 30,720. These fines were much higher than those set forth in the industry's regulatory framework (BR\$ 532 to BR\$ 5320), yet were not charged from Private Protection. The reasons thereof seem to be related both to the trade association's difficulty in getting to know the companies' day-by-day, to the generic nature of the offences and to a lack of interest in investigating and punishing companies with great clout in the association, as was the case of Private Protection.

External control by regulatory body

Considering the fact that the provision of bank security services is more regulated and potentially more punishable than that of other industries, I expected to find variation between the configuration of Mendes' and Berguer's security personnel control mechanisms. Indeed, the highly aligned mechanisms of control governing security personnel deployed in banks can be accounted partly to the fact that there is more public regulation over the bank security industry. As mentioned, this area was the only one for which there was some regulation on body searches. As non-compliance with these rules could result in fines for the banks, these were constrained to create conditions such that the occasional body search complied strictly with the provisions of Federal Police Ordinance 387/06-DG/DPF. Similar regulation was lacking in the contract ruling the security services provided to Berguer. Without regulation, Berguer and Private Protection faced no constraints as imposed by the Federal Police on how to conduct body searches. Therefore, the positive effect of State regulation on search procedures in bank branches was null for the Berguer case. Had the private policing activity in retail chains had a similar regulation than that of bank security, the likelier it would have been for Berguer to have limited searches carried out at its distribution centres to the use of a metal detector only.

In addition to being unable to prevent body searches in a retail chain, the research also found out that the effect of regulation as an external control for the structuring of control mechanisms fit to prevent physical and verbal aggression by private security personnel was negligible. The regulatory framework does not provide for any penalties for companies whose security staff may incur in such misconduct. Should the misconduct constitute a crime and a security guard come to be criminally indicted, sued or convicted, he or she will be banned from the profession and the company will have to hire another employee. This is an important mechanism for controlling conduct, as security personnel

know they will be held accountable and banned from the profession in case they commit any act deemed illicit. However, it is of little effect on security companies. Besides the inconvenience of having to hire a new employee, security companies whose security staff have violated civil rights bear no cost whatsoever arising from penalties imposed by the Federal Police. Generally, the penalties provided for in Ordinance 387/06-DG/DPF are not aimed at holding security companies accountable for the conduct of their security personnel. Of the 96 penalties to be imposed on private security companies provided for in the ordinance, only six are related to the conduct of security personnel. And none provides for holding security companies accountable for the misconduct of security personnel in their relation with the public. The Federal Police can only hold security companies accountable in cases when private security personnel are caught acting outside the premises of the property being guarded or caught wearing reportedly missing or irregular uniforms and using security equipment. Thus, a company whose security guard is caught without proper uniform or positioned outside the premises being protected will be fined, whereas a company whose guard is caught disrespecting a citizen will go unpunished. The crimes against life perpetrated by the Private Protection security personnel deployed at the Mendes Bank branches, for example, were not punished by the Federal Police, as this agency has no powers to raise the cost of this type of misconduct in order to compel security companies to structure control systems that are adequate to prevent civil rights' violations.

External control by the media

Despite the lack of mandate of the Federal Police to drive the development of internal control mechanisms designed to prevent misconduct such as that at Mendes Bank, one might expect that the bank's and the security company's negative exposure on the media would lead to such a development. The interviews with Private Protection's vice president and with one of the Mendes' Corporate Security Superintendence managers showed that both organisations actually perceived exposure on the media arising from security personnel misconduct as very negative. Both showed resignation with respect to the role of the media, which, in their view, was only carrying out its duty by covering dramatic events for the purpose of ensuring an audience. To try to offset the impact of the media, Mendes and Private Protection resorted to crisis management policies, one of which was focused on mitigating the impact of the negative publicity that the coverage of the cases of misconduct brought to the companies. The efficiency of this policy may be one of the reasons why the name Private Protection surfaced so seldom, comparatively, on the digital media: 102 mentions, as opposed to 10,204 of Mendes Bank.

Although Mendes was more often mentioned on the media than Private Protection, media coverage of the misconduct incidents carried out by the security personnel deployed by the bank had a greater impact on the security company than on the bank. Yet the outcomes of such exposure, rather than driving the security company to better structure the security staff internal control system in place at the bank, just contributed to force it to justify its acts. According to Private Protection's vice president, the media's coverage of the 2010 serious misconduct case in which a security guard shot to death a citizen after a discussion at a security door of a Mendes Bank branch raised the concerns of several clients who had hired armed security services. Worried that another misconduct incident similar to the one at Mendes might happen again, these clients demanded

explanations from Private Protection on the screening and training programmes of armed security guards.

These findings suggest that the media is a powerful actor in holding security companies accountable to the public, especially to their clients, with regard to security services delivered, yet has little power to impose high enough reputational penalties that will raise the cost of misconduct above the cost required to have applicants screened in more stringent processes and guards more closely supervised, in addition to being equipped with non-lethal weapons, trained to solve conflicts at revolving doors and so on. In other terms, the media seems to be better suited to demand information and explanations from the private security sector than to impose reputational sanctions capable of altering institutional practices and increasing the likelihood that private security guards are more controlled internally. In the terms proposed by Schedler (1999), rather than accountability as enforceability, the media exercises accountability as answerability.

External control by the judiciary

Expectations regarding the judicial control that acted in the Mendes and Berguer cases were also that this type of control would have raised the cost of behaviours conflicting with public relations and human rights principles, thus creating the conditions for establishing more structured internal control systems conducive to behaviours aligned with such principles. Yet this did not happen either.

External control by the judiciary occurred in two distinct situations. In the Mendes case, judicial control took place through high-value indemnification claims filed especially against Private Protection for the purpose of remedying serious damages caused by unusual misconduct. The 2009 misconduct case prompted two indemnification claims amounting to Brazilian reals (BRL) 1.5 million, which by 2011 had caused Private Protection to disburse at least BRL 80,000. As for the 2010 episode prompted a BRL 1.2 million indemnification claim, which at the time the research was done was still pending trial. Mendes was only sued once as co-defendant, yet according to the lawyer representing Private Protection in the legal cases studied, there was a contract between the parties setting forth that, in case compensation for damages to victims of security guards was ruled, indemnifications were to be paid for by Private Protection. Hence, even though judiciary control acted on both parties to the contract, it had no effect on Mendes. By transferring all the liability for indemnifying the victims to Private Protection, the contract arrangement in effect led to a greater impact by the judiciary control on the security company than had initially been thought of. However, this impact was not strong enough to promote changes in the internal control system governing the security guards deployed in the banking industry. A possible explanation thereto is that serious misconduct cases leading to damage claims are rare and court rulings in cases of this nature too slow. Despite the high amounts at stake in judicial processes, in the absence of an agreement between the parties, a final ruling might take as long as a decade. Since a sentence will take long, the company has a chance of generating cash and providing for compensation costs easily. Judicial action in cases of misconduct as reported at Mendes is also limited because these incidents are very rare. According to Private Protection's vice president and to the corporate counsel in charge of civil litigation, the two episodes in which Private Protection security personnel guarding Mendes Bank risked the lives of bank clients were the only cases of misconduct of such magnitude in the period from 2004 to 2011. Given

the relatively rare nature of these episodes, the corporate management's prevailing view was that misconduct leading to crimes against life and the ensuing lawsuits is a misfortune that cannot be prevented by investing more in screening, training, supervision and the setting in place of misconduct warning systems.

Though for different reasons, the judicial control acting in the Berguer case also failed to lead to the expected result. Judiciary action in the Berguer case exhibited features quite distinct from those of the Mendes case. Justice was not called upon in face of infrequent misconduct but, rather, to compensate for damages claimed by Berguer employees submitted to daily invasive searches carried out by Private Protection security guards. Unlike the Mendes case, all suits were filed against the client and not against the security company. And this could not be otherwise, since Private Protection included a provision in the contract and in its manuals of rules and procedures that the conduct of its security guards was governed by a demand made by Berguer. The Brazilian labour justice also took swift action with regard to the indemnification claims for moral damages caused by body searches, yet handed down ambiguous rulings and set relatively low-value compensations. By April 2012, of the seven indemnification claims filed with labour justice, three had been denied and closed, one had been rejected in the lower court and was still pending an appeal and three had led to compensations to the victims. In this last case, the amounts ruled by the magistrates were relatively low, the three suits amounting to damages worth BR\$ 36,000. Yet, Berguer appealed and managed to reduce that amount to BR\$ 24,500. Information gathered at Private Protection regarding the losses incurred by Berguer on account of theft in just one month in 2011 shows that these amounts were insufficient to discourage the company from using the invasive security procedures it resorted to. For example, in November 2011 alone, Berguer lost BR\$ 7000 worth in goods stolen from its distribution centres.

This reality seems to hint at the fact that for Berguer discontinuing body searches was more costly than facing the risk posed by potential claims by its staff; nor was replacing body searches with alternative methods in the plans of the company, as it understood that body searches as conducted were cheaper and more efficient.

Conclusion

The findings of the cases studied showed that the configuration of the internal control systems of private security companies in Brazil is strongly affected by client action and, to some extent, by the Federal Police and the business association, but not by the judiciary and the media. When clients remunerate service provision contracts adequately and are interested in law-abiding conduct, conditions are generated that are conducive to highly structured internal control systems aligned with public rules. Another finding was that control by the trade association was somehow capable of driving adequate remuneration of contracts by means of a certification mechanism that added value to the company in its business relation with many non-financial industry clients. By laying down rules for personal searches in bank branches, control by regulation also proved relevant for financial-industry clients to demand security services in line with human rights principles. However, the absence of norms regulating all other circumstances in which security guards interacted with citizens limited the functioning of State control. These findings suggest that trade associations can play a role in private security control, but one should bear in mind that this type of control has structural problems regarding its nationwide coverage that limit its enforceability. These problems disappear in the case of

State regulation, which seems to function adequately when appropriate regulatory arrangements are in place. Thereby, a key question for future research is to know to what extent these arrangements, lacking in Brazil, exist in other jurisdictions.

The cases analysed also indicated that, when clients do not remunerate contracts adequately and expect behaviour failing to comply with public norms, the result tends to be an internal control system with low structuring and alignment. In face of these situations, the survey showed that the external controls were not capable of acting correctively. Loss of control with regard to the Mendes contract and systematic misconduct regarding the Berguer contract had no reaction from the external controls represented by the trade association and the regulatory body. The absence of adequate industry-based regulations and will by the trade association, as well as nonexistent State regulations to prevent misconduct cases, such as those that took place at Berguer and at Mendes, rendered these controls ineffective.

Nor was reaction by the media and the judiciary to the misconduct cases at Mendes and at Berguer capable of compelling clients to demand and security companies to improve control over security employees so that they no longer adopted behaviours not in compliance with human rights principles and public relations. The media fulfilled its role by extensively covering the cases of misconduct at Mendes and proved highly capable of driving answerability, yet was not capable of bringing about changes in the internal control mechanisms in place at Private Protection. If this action sets a pattern that can be generalised, or if we are before a finding that is particular to the case analysed, is something that deserves further inquiry in Brazil and in other jurisdictions. Further research is also needed to understand if the non-effectiveness of the judicial control is related to a pattern that is specific to Brazil and to other countries adopting the civil law legal system. On the one hand, it seems clear that the slowness of the Brazilian Ordinary Justice is related to the great quantity of procedural resources available for litigants and to the high demand for Justice that exists in Brazil.³ Moreover, it is necessary to analyse if the moderate nature of the damages awarded by Brazil's Labour Justice is associated with the Roman tradition of the country's law, which tends to value the compensatory nature of the damages awarded (establishing sentences that primarily consider the victim's economic condition) than their punitive/dissuading nature (establishing sentences that primarily consider the offender's economic condition), the latter highly prized in Common Law countries, where legal principles like punitive damages often guide magistrates.

Lastly, we can say the findings in the cases studied contradict the optimistic theses about private security control, present in the works by Stenning (2000) and Davis *et al.* (2003), and confirm the pessimistic views that have been arguing that there is a governance and accountability deficit regarding private policing activities (Loader 2000, Bayley and Shearing 2001, Shearing and Wood 2003a, 2003b, Burbidge 2005, Zedner 2006). For those situations wherein clients are not interested in or fail to offer conditions for the setting in place of control mechanisms designed to prompt respectful conduct, our study showed that there are no external controls capable of acting as a last line of defence and course correction. These findings are consistent with the findings in a number of scholarly studies on police control that show that external controls are not sufficient to prompt alignment with the juridical norm or generate quality security services (Goldsmith 1991, Reiss 1992, Skolnick and Fyfe 1994). As noted by Bayley (1985, p. 180), the greatest merit of external controls might not be instrumental but, rather, symbolic – their

existence is reassuring to the citizens, in that someone is supervising what is taking place and ready to take action should police values fail. To conclude the same about private policing building on a few case studies for a country as big and multifaceted as Brazil is not prudent. External controls stemming from the market, society and the State might function as a line of defence against clients demanding and companies executing private policing activities that result in serious and systematic civil rights' violations, yet this still needs to be demonstrated, whether in Brazil or in other jurisdictions.

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Notes

1. Business associations in Brazil are part of a corporatist, interest representation system whose origin can be traced back to the 1930s. These associations are the official representatives of companies within a same industry of a given jurisdiction that, in the case of the private security sector, corresponds to the 26 Brazilian states plus the Federal District (where Brasília, the capital of Brazil, is located). Membership to employers' associations is voluntary, but all companies are obliged to pay the 'association's fee'. This fee is used to keep local and higher representation entities – federations, bringing together local associations, and confederations, bringing together business federations (Mancuso 2007).
2. Takers and providers of private security services in Brazil are under the jurisdiction of Ordinary Justice and Labour Justice. Ordinary Justice is organised at the federal (national) and state levels. Federal Justice is responsible for judging Union-related matters. In 2010, this sphere of Justice was made up of 1534 federal judges (first tier) and by 5 Regional Federal Courts (collegiate and appellate bodies). State-level Justice is also organised in two tiers and is made up of 10,264 court judges (first tier) and 27 Courts of Justice (collegiate and appellate bodies). Above the Federal Courts and the state-level Courts of Justice, Brazil has two higher collegiate bodies: The Higher Tribunal of Justice (STJ, from the Portuguese acronym), upon which is incumbent the uniform interpretation of federal and state laws, and the Supreme Federal Court (STF, from the Portuguese acronym), vested with the power to review constitutional matters. The federal-sphere-only Labour Justice, in turn, specialises in labour-related litigation and in 2010 was made up of 2612 labour judges (first tier), 24 Regional Labour Courts (collegiate and appellate bodies) and the Higher Labour Court (higher collegiate and appellate body).
3. The 'congestion rate' – backlog of lawsuits ending a year without having been tried – of the São Paulo Court of Justice, responsible for judging the lawsuits stemming from the misconduct of the Mendes security guards, was of 74% in 2009 and 81% in 2010. All over Brazil, between 2009 and 2012 the average congestion rate was 70% for Ordinary Justice and 48% for Labour Justice (CNJ - Conselho Nacional de Justiça 2013).

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