PRIVATIZATION OF SECURITY AND THE TRANSFORMATION OF THE MODERN BOURGEOIS STATE IN THE NEOLIBERAL ERA: THE CASE OF TURKEY

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Approval of the Graduate School of Social Sciences

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ABSTRACT

PRIVATIZATION OF SECURITY AND THE TRANSFORMATION OF THE MODERN BOURGEOIS STATE IN THE NEOLIBERAL ERA: THE CASE OF TURKEY

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This thesis problematizes the phenomenon of privatization of security within the context of the neoliberal transformation of the capitalist state in Turkey. On the basis of the critique of neo-Weberian and Foucauldian literatures, it attempts to construct its peculiar theoretical-historical pathway on the relationship between state-coercion-class. It problematizes the historical constitution of this relationship within the context of the historical specificity of the capitalist state power. In this regard, the formation of the public police in the 19th century is discussed as an important, albeit contradictory, aspect of the materializion of this specificity. Furthermore, it is asserted that it was a reformative movement within which class practices of private provision of security were not totally eliminated, but incorporated into the impartially presented institutional materiality of the modern bourgeois state in and through class struggles. On this basis, the thesis discusses the privatization of security in Turkey as a contradictory transformation determined by the tension between the alleged impartiality and class nature of the state. It critically analyzes the historical period from the 1960s to the 2000s to identify different dynamics of transformation in terms of the privatization of security and institutional restructuring of the state. Within this framework, it argues that the institutionalization of private security in Turkey has signalled a trend towards

the fusion of *state power* and *class power* in a new form with novel contradictions.

Keywords: alleged impartiality of the capitalist state, modern bourgeois state, private security, neoliberalism, Turkey

ÖZ

NEOLİBERAL DÖNEMDE GÜVENLİĞİN ÖZELLEŞTİRİLMESİ VE MODERN BURJUVA DEVLETİN DÖNÜŞÜMÜ: TÜRKİYE ÖRNEĞİ

Dölek, Çağlar

Yüksek Lisans, Siyaset Bilimi ve Kamu Yönetimi Bölümü

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Bu tez, Türkiye'de kapitalist devletin neoliberal dönüşümü bağlamında güvenliğin özelleştirilmesi olgusunu sorunsallaştırmaktadır. Özel güvenlik olgusu üzerine bilgi üretiminin neo-Weberci ve Foucaultcu yaklaşımların hakimiyeti altında olduğu iddiasından yola çıkan çalışma, bu iki grup tartışmaların eleştirisi üzerinden kendi tarihsel-kuramsal çerçevesini kurmaya çalışmaktadır. Özel güvenlik meselesini kapitalist devletin tarihsel özgünlüğü çerçevesinde analiz etme amacıyla devlet-zor-sınıf ilişkisinin tarihsel olarak nasıl kurulduğuna ilişkin bir tartışma yürütmektedir. Özellikle 19. yüzyılda toplumsal çatışmalarla belirlenen modern polisin kurulum süreci, bu özgüllüğün önemli ama çelişkili bir veçhesi olarak ele alınmaktadır. Bu süreçte, güvenliğin özel tedarikine dair pratiklerin tamamen ortadan kaybolmadığı, belli bir yasallık içinde devletin kurumsal maddiliği tarafından soğurulmasıyla sonuçlandığı vurgulanmaktadır. Tezin odaklandığı Türkiye'de güvenliğin özelleştirilmesi konusu, bu bağlamda devletin tarafsızlık görüngüsü ve sınıfsallığı arasındaki gerilimle belirlenen çelişkili bir toplumsal dönüşüm olarak ele alınmaktadır. Bu tartışma, 1960'lardan 2000'lere giden süreçte güvenliğin özelleştirilmesi ve devletin kurumsal olarak yeniden yapılandırılmasını belirleyen farklı dönüşüm pratiklerini sorunsallaştırmaktadır. Bu çerçevede, Türkiye'de özel güvenliğin

kurumsallaşmasıyla, devlet ve sınıf gücünün yeni bir form ve yeni çelişkilerle içiçe geçmesi yönünde bir eğilimin ortaya çıktığı ileri sürülmektedir.

Anahtar Kelimeler: kapitalist devletin sınıf tarafsızlığı iddiası, modern burjuva devleti, özel güvenlik, neoliberalizm, Türkiye

To my mother and father

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Last, but not the least, I would like to dedicate the thesis to my father and mother**,** who have always been with me with their love, patience and encouragement.

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APK	General Directorate of Security, Department of Research, Planning and Coordination (*Emniyet Genel Müdürlüğü – Araştırma, Planlama ve Koordinasyon Daire Başkanlığı*).
art.	Article
CCTV	Closed-Circuit Television
CHP	Republican People's Party (*Cumhuriyet Halk Partisi*)
cls.	Clause
CMUK	Law of Criminal Procedures (*Ceza Muhakemeleri Usulü Kanunu*)
CoESS	Confederation of European Security Services
CoM	Council of Ministers
ed.	Editor
EGM	General Directorate of Security (*Emniyet Genel Müdürlüğü*)
EU	European Union
ft.	Footnote
GESIDER	The Security Industry Businessmen Association (*Güvenlik Endüstrisi Sanayicileri ve İşadamları Derneği*)
GUSOD	The Organization of Security Services Associations (*Güvenlik Servisleri Organizasyon Birliği Derneği)*
law no.	The law numbered as
LCP	Law of Criminal Procedure
MGK	National Security Council (*Milli Güvenlik Kurulu*)
MOBESE	Mobile Electronic System Integration (*Mobil Elektronik Sistem Entegrasyonu*)
MP	Member of Parliament

MSP	National Salvation Party (*Milli Selamet Partisi*)
POLSAN	Police Care and Donation Fund (*Polis Bakım ve Yardım Sandığı*)
PSC	Private Security Company
PSG	Private Security Guard
PSO	Private Security Organization
SEEs	State Economic Enterprises (*Kamu İktisadi Teşekkülleri*)
TCK	Turkish Penal Code (*Türk Ceza Kanunu*)
TGNA	Turkish Grand National Assembly
TOGF	The Federation of All Private Security Associations (*Tüm Özel Güvenlik Dernekleri Federasyonu*)
US	United States of America
UK	United Kingdom

CHAPTER 1

INTRODUCTION

> For the State to say "I cannot ensure security, and thus will utilize the private police" means a weakness, *which would cause the confidence on the state to be shaken* (The Report of the Commission of Justice of the Turkish Grand National Assembly-TGNA, 17.02.1975; cited in Gülcü, 2003; emphasis added).
>
> Ensuring the security of people's life and property is essentially one of the most important missions of the state. On the other hand, the persons have the right to protect their lives and properties. *In addition to the general security ensured by the state, this opportunity should be given to those who want to receive additional security for their lives and properties* (The General Preamble of the Law no. 5188 on Private Security Services, 26.05.2004; emphasis added).

These are quotations from two different governmental documents issued within radically different socio-political contexts; however, they are concerned with the same single question: private provision of security. The first one was produced in response to the rising demands for private police, which were conditioned by the perceived insecurity of public and private property in the 1970s associated with the social struggles and contradictions that shook social order. These demands echoed in the state as a contested *political* question. For, as the response of the TGNA Commission of Justice exemplifies, the concerns over "the confidence on the state" did prevent the enactment of a particular law on private security, even though many draft laws on the issue were brought into the parliamentary debates by right-wing political parties throughout the 1970s. The second quotation is from the General Preamble of the Law no. 5188 on Private Security Services, which was enacted in 2004. The law established the legal and institutional grounds for the operation and proliferation of private security companies. In total contrast to the first document, which was specifically concerned with the question of "the confidence", the second

governmental document takes an affirmative stance towards private security by presenting it as an "opportunity to be given to those who want to receive additional security for their lives and properties".

Why was the issue of private police debated in the parliament throughout the 1970s? What was meant by the Commission of Justice in 1975 which declared a position against the private police and defined it as a matter of "confidence" on the state? What does it mean for the state to redefine this issue as a question of an "opportunity" to be provided to individuals in society? How has this central concern over confidence been downplayed in favour of a pro-market language which thus *resolved* this once politically contested issue? In the light of these questions, this thesis aims to offer a historically grounded theoretical framework to understand the above mentioned contradictory position taken by the state *vis a vis* the issue of privatization of security in different time periods. It will argue that the contradiction at hand, which is literally uttered in the words of "confidence" and "opportunity", refers to a central tension between the alleged impartiality and the class nature of the capitalist state. This tension refers to the central problematique over making sense of the historically specific feature of the capitalist state as the impartial and impersonal form of rule on the one hand, and as a class relation on the other. Of course, this constitutive tension cannot be reduced to the issue of (private) security only; however, it is the phenomenon of privatization of security through which one of the most explicit manifestations of this tension can be observed in the process of neoliberal restructuring of the capitalist state.

In an attempt to problematise concrete manifestations of this tension, the thesis will focus on the Turkish example and analyse the contradictory process of privatization of security within the context of the neoliberal transformation of the capitalist state in Turkey. This process, which first appeared in advanced capitalist countries in the post-war period, gained a radical momentum in Turkey in the post-1980 period. Interestingly, this issue has been scholarly neglected in Turkey until the recent years except for the long standing interests of "cop-sided" viewpoints on private policing. However, it has been one of the

central aspects of the privatization of public services in the era of neoliberalism. So much so that, in many countries including Turkey, the private security guards have outnumbered the public police making this *novel* form of policing one of the principal actors in the processes of social control in everyday life. Private security guards are now employed in almost each and every sphere of social life, whether it be *private* or *public*, like shopping malls, residential sites, business districts, banks, hospitals, universities, public parks, state institutions, etc. Even the security of police stations and military recruiting offices has begun to be ensured by private security guards. The proliferation of the private security has gone hand in hand with the increasing social and political concerns over the "terror" they cause in everyday life. It is not unusual now to encounter with a news report on arbitrary practices of use of force by private security guards if one just thumb through any daily newspaper. Why have the use of the private security guards proliferated in such an extensive manner? What is the "terror" of security guards all about, if they are employed for ensuring "security"? How shall we make sense of the relationship between "confidence", "opportunity", "security" and "terror"? These will be the specific questions that the thesis will try to answer in the light of the Turkish experience in private policing.

The thesis is organized in three chapters, in addition to this introductory and the last concluding ones. Chapter 2 will try to develop a critical analysis of the two dominant scholarly perspectives on the issue of private security, namely neo-Weberian and Foucauldian ones, which have been hitherto developed to make sense of private policing practices in advanced capitalist countries. The central historical research problematique of the thesis will indeed be constructed on the basis of an immanent critique of the problematic theoretical-historical conclusions produced by these two sets of perspectives. Having grounded their analysis on the conventional Weberian understanding of state monopoly over legitimate use of force, the neo-Weberian approaches have argued that private policing have led to a decline in the power of the state in exercising this monopoly and to the pluralisation of the actors and mechanisms in the processes of social control. They discuss the issue of private security

within the more general context of the fragmentation of policing, which can no longer be exclusively performed by the state. The outcome of this process has arguably been the democratization of the processes of social control as the authorization and provision of security becomes multi-centric. The thesis will position itself against the institutionalist social ontology which perceives the state-society relations as externally related to one another even though they claim to go beyond this distinction. It will be contented that rather than civil or democratic governance, the "pluralisation of policing" has gone hand in hand with an even more authoritarian restructuring of the capitalist state power. For, *private* forms of policing have not worked independently from public police forces, and thus meant a peculiar fusion of public and private forms of power with an overt class bias.

Foucauldian analyses have tried to overcome the methodological traps reproduced by neo-Weberian approaches due to their dualistic conceptions of state-society, law-violence, public-private, etc. This literature is grounded within the post-structuralist theoretical framework of Michael Foucault and tries to make sense of the issue of private security within the context of the radical transformation from the Fordist discipline society to neoliberal governmentality. This body of literature fruitfully discusses questions like how the neoliberal market rationality has reconstructed all social spheres including the issue of security in line with the commodity logic of capital, and how the individuals have been constituted as "free and responsible subjects" taking care of their security on their own. However, they do also deserve particular criticisms in relation to the question of state and the contested and contradictory class character of the transformation underway. To the extent that they denounce state as a valuable object of analysis in favour of irreducibly dispersed power relations, they cannot develop a thorough analysis of private policing, which necessarily requires a critical discussion on the institutional materiality of the capitalist state power. Furthermore, they rely on a problematic conception of power within which the question of struggle is almost totally excluded from the analysis. This in turn prevents one from

comprehending the constitutive role played by social struggles in the privatization of security in the neoliberal era.

In fact, the discussions carried out by these two sets of literature on the contemporary transformations in policing in general, and the privatization of security in particular are conditioned by the ways through which they historically understand the issue at hand. That is, their specific historical narratives on issues like state, coercion, and the police determine how they perceive current developments. Chapter 3 will try to contest these dominant narratives by proposing an alternative thereotical and historical framework. The chapter raises the following questions with a quest to construct an alternative pathway: What is meant by private provision of security? What are the social and ideological implications of the public provision of security in the form of public police? How was this relationship between state and coercion historically constituted in pre-capitalist and capitalist societies? What was the place of private provision of security amidst the process of historical formation of the public police? All in all, what is the relationship between state-coercion-class that is continuously formed and reformed in historical process? These questions paves the way for a historical-cum-theoretical analysis that would reveal the historically specific nature of capitalist state power and the organization of coercion in capitalist societies. For it was the defining characteristic of pre-capitalist societies that the coercion was organized as a class tool constitutive in social relations of production. However, it seemed to be ultimately incorporated into the centralized institutional structures of the modern bourgeois state in the 19th and the early 20th centuries and *legitimated* with the claim of universality, legality and impartiality of the state. The peculiarity of the modern bourgeois state lied in the apparent separation of the *state power* from the *class power*, which was grounded in the *real-and-superficial* distinction between the economic and the political, and ultimately formed in and through the struggles of social classes (Bonefeld, 1992; Clarke, 1991b; Corrigan, Ramsay and Sayer, 1980; Corrigan and Sayer, 1985; Gerstenberger, 2007; Poulantzas, 1978; Teschke, 2003; E.M. Wood, 1995; 2003).

This theoretical and historical discussion will pay particular attention to the question of how the private provision of security was transformed in and through the process of the formation of the public police. It will be contended against the conventional Weberian accounts that the private practices and forms of policing were not totally eliminated during the formation of the public police, but were redefined and incorporated into the institutional materiality of the modern bourgeois state. However, they did pose an inherent challenge to the ways through which the modern bourgeois state has reproduced itself, not only discursively but also materially, with the very claim of impartiality. Therefore, Chapter 3 will problematize the tension between "the confidence" (impartiality) and the "opportunity" (class bias) with reference to the relationship between the state, coercion and the class, which has been itself contingently constituted in and through social struggles in the 19th and the early 20th centuries.

Within the context of this theoretical-historical framework, Chapter 4 will try to develop a critical discussion on the process of the privatization of security in Turkey by locating the issue within the broader context of the neoliberal restructuring of the capitalist state. It will analyze the period from the 1960s to the 2000s in order to identify the historical moments within which the tension between the impartiality and the class bias of the capitalist state has been specifically expressed. This historical periodization will be discussed under three sections. The first one will analyze the pre-1980 period within which the demands for private provision of security in response to social disorder started to be discussed at the state level beginning from the second half of the 1960s. However, the state could not develop a coherent politico-legal framework for private police because of the aforementioned tension which manifested itself in the concerns for intensified social control on the one hand, and reproduction of social legitimacy on the other.

The second historical phase of the privatization of security in Turkey was conditioned within the context of the neoliberal restructuring of the capitalist state from the early 1980s to the early 2000s. This was the first phase of

neoliberal transformation in the country in which almost all social spheres and public goods and services were subjected to a relentless assault of neoliberalism. In this process, the social practices of private security were culminated in the *de facto* constitution and operation of private security sector even though there was no legal basis for such a development. In fact, this was a period within which the question over *the terror* of the security guards led to serious social and political concerns in news reports and public discourse. It seemed that private security guards, who were supposed to provide *security* in everyday life, became a potential source of insecurity. The constitutive role of the state in such processes was manifested in the formal and informal practices through which it tried to take the private security under control as it was concerned with the arbitrary use of force performed by the security guards employed by the *de facto* operating companies. Besides, the state also attempted to incorporate this ambiguous sphere into its institutional structure as a novel form of everyday policing.

The law no. 5188 enacted in 2004 has opened the third stage in the privatization of security in Turkey. The law finally brought a kind of institutionalization and legalization to this already existing sphere at a particularly significant time period within which the hitherto process of neoliberalism entered into the constitutionalization and institutionalization phase. The post-2004 period has been characterized by the following phenomena: the booming private security sector alongside the consolidation of subcontracting as the central form of wage relation therein, increasing deployment of security guards in everyday life, rising concerns over the arbitrary practices of use of force performed by them, and ever-strengthening relationship between private security and public police. On the basis of these observations, this last section of Chapter 4 will deal with the initially posed question of how the tension between "confidence" (impartiality) and "opportunity" (class bias) was *resolved*. It will be contended that the institutionalization of private security has corresponded to the incorporation of a peculiar form of policing into the allegedly impartial institutionality of the capitalist state. This peculiar form of policing has reconstituted the processes of

social control with an overt class bias while it enables the authoritarian reproduction of state power in the social body.

At this point, it is important to underline that this discussion on Turkey would have required a more comprehensive theoretical-historical research on the specificities of Turkish state in relation to the historical (re-)composition of class structure in the country. More particularly, the question of the formation of the public police in the state building process from the Ottoman Empire to the Turkish Republic should have been incorporated into the analysis in an attempt to underline the peculiarities of Turkey regarding the issue of the permanence of private practices and forms of coercion. Such a question, which has not been problematised by the relevant academic studies yet, cannot either be focused on within the confines of the present thesis, so that the analysis will necessarily be limited to the understanding of the Turkish case from the 1960s onwards.

The concluding chapter will make a general assessment of the main arguments of the thesis with reference to the concrete historical findings derived from the privatization experience in Turkey. On this basis, it will re-evaulate the problematic conclusions of the neo-Weberian and Foucauldian literatures in the light of the insights gained from the analysis of the case of Turkey. Furthermore, a particular effort will be spent to critically assess the phenomenon of privatization of security in Turkey with reference to the theoretical and historical framework constructed in Chapter 3. It will be then contended that the Turkish case provides important insights to question the transformation of the alleged impartiality of the capitalist state in line with the privatization of security with the conclusion that the institutionalization of private security has signalled a trend towards the fusion of *state power* and *class power* in a new form with novel contradictions.

The analysis of the privatization of security in Turkey will be made through the critical examination of primary and secondary sources. The primary sources include the legal documents enacted by the Parliament, and the regulatory notices issued by different state institutions in different time periods. They

provide important insights to making sense of not only the legal regime constituted, but also the contradictory state practices contingently determined with regard to the private provision of security in different historical moments. Besides, newspaper reports and information gathered from the websites of various public and private institutions, which have direct or indirect connection to the issue at hand, will also be investigated as a second set of primary documents. Such an analysis will be helpful to both incorporate raw information into the discussion and underline concrete manifestations of the aforementioned contradiction in everyday life as well as in the practices of public institutions.

The secondary sources include recent critical scholarly studies on the issue as well as the "cop-sided"[1] analyses in Turkey. As already underlined, the issue of privatization of security has remained exempt from critical scholarly attention for a long time, and a limited number of scholars have begun to produce critical knowledge on the issue only after the enactment of the law no. 5188 in 2004 (see Arap, 2009a; 2009b; Atılgan, 2007; 2009; Bora, 2004; 2007; Geniş, 2009; Haspolat, 2005/2006; 2010; Kozanoğlu, 2001; Yardımcı, 2009). On the other hand, the production of knowledge in this area has seemed to be dominated by cop-sided sources, which have produced a vast amount of uncritical academic and/or policy-oriented works. These studies generally take an affirmative stance towards the phenomenon of privatization of security on the basis of a glorified market as the sole mechanism organizing social relations. They accordingly provide explanations to the conditions which "necessitated" the rise of private security in the 1960s and the 1970s, and its institutionalization and legalization in the post-1980 period. In short, the privatization of security is seen as a "natural", "necessary" and even "unavoidable" response to the rising "terrorist movements" throughout the

[1] I owe this phrase to Berksoy (2007a: 12). I use this notion to refer to the fact that these sources on private security are *mostly* produced by such people as ex-police officers, owners/managers/consultants of private security companies, students of Police Academy, etc. In this regard, it is important to underline that the production of uncritical and policy-oriented knowledge on private security is *to a large extent* determined within the context of organic relationship between this literature and the private security sector.

1970s and to the increasing problems of insecurity in everyday life in the 1990s and the 2000s (Abanoz, 2008; Aydın, 2002; 2004; Çetin, 2007; Dönmez, 2007; Eryılmaz, 2006; Fırat, 2008; Gülcü, 2002a, 2002b and 2003; Güngör, 2005; Kandemir, 2008; Karaman, 2004; Karaman and Seyhan; 2001; Kuyaksil and Akçay, 2005; Kuyaksil and Tiyek, 2003; Özler, 2007; Şafak, 2000; 2004; Şeneken, 2001; Ünal, 2000). As will be discussed in Chapter 4, such a perception has been grounded in the politically constituted argument that the state was not able to handle with the rising problems of security in everyday life, which necessitated alternative means and sources of funding to make everyday forms of policing permanent. In other words, the familiar discourse of neoliberalism has been commonly utilized in relation to the particular argument that increasing problems of insecurity of property and persons could not be resolved with the public police only, but should be handled by means of "alternative forces and sources of funding". In fact, such legitimazing discourses are not peculiar to Turkey, and as Nigel South underlines, they have been employed in many other countries with particular reference to "the fiscal crisis of the state" (1997: 105, 106).

CHAPTER 2

CRITICAL ANALYSIS OF THE EMERGENT RULING ORTHODOXIES

The neoliberal transformation of the last three decades has restructured almost all aspects of social life in a radical and contradictory manner. Gradually establishing its "ecological dominance" over the globe (Jessop, 2007: 74), neoliberalism has attempted the subordination of social relations of production into the bare mechanisms of *the self-regulating market*. As this process has deepened in time, the resultant picture has revealed itself in the problems of increasing social inequality, deprivation and polarization, which have in turn put the questions of social order and security at stake. This process has been accompanied by and resulted in the social struggles over the re-organization of society, which have been manifested in different ideological, political, socio-economic and cultural forms throughout the world (Swyngedouw, 2000: 63). In other words, the project of political constitution of *the free market* has gone hand in hand with the intensification of the social conflicts, contradictions and polarizations. Therefore, the post-1980 period has been a contradictory process of social transformations, which have caused and in turn been affected by the radical social tensions and conflicts.

In the wake of these contradictory transformations, it is quite interesting and significant to observe the developments and transformations that have been taking place in the way in which the social order is constituted, maintained and secured. The question here is concerned with a process of redefinition and reconstitution of the mechanisms, processes and actors in the maintenance of this unsustainably unjust and polarized neoliberal social order. In this process, the state restructures its *defining* characteristics with regard to order and security in an ever-coercive manner while a more complex picture of multiple policing agents emerges alongside the continuing dominance of the state

power. The phenomenon of privatization of security constitutes one of the crucial developments within the context of all these transformations with regard to the processes of social control and practices of policing. It has become the principal form of everyday policing exercising surveillance and coercive practices for the daily reproduction of social relations.

This chapter will try to make a critical analysis of the dominant scholarly discussions on the issue of private security within the broader theoretical-historical framework concerned with the transformations in policing processes in the contemporary world. The initial observation to be made with regard to these discussions is that a huge body of literature has recently emerged to make sense of the transformations underway. Due to the complexity of the concrete historical transformations, the scholarly discussions have come up with various explanations informed by quite diverse theoretical frameworks. Accordingly, novel conceptualizations have been proposed to make sense of the process. Among others, the following conceptual propositions on contemporary policing processes which include, but are not limited to, the phenomenon of private security attract particular attention: *(networked) nodal governance* (Bayley and Shearing, 2001; Dupont and Wood, 2007; Kempa et. al, 1999; Lewis and Wood, 2006; Shearing and Wood, 2003a; 2003b; Shearing, 1992; 2001; 2005; Wood and Shearing 2006), *pluralized policing* (Loader, 1999; 2000; Loader and Walker, 2001), *mixed economy of control* (South, 1997), *culture of control* (Garland, 2001), *control/surveillance society* (Dolgun, 2008), *post-modern policing* (Sheptycki: 1998), *disciplinary neoliberalism* (Gill, 1995a; 1995b; 1997), *neoliberal governmentality* (Burchell, Gordon and Miller, 1991; Gambetti, 2007; 2009; Miller and Rose, 2008; Yardımcı, 2009), and the like.

These novel conceptualizations are scholarly attempts to make sense of the changing nature of policing processes in the era of neoliberal globalization. In this regard, they cannot be reduced to the particular issue area of private security, but provide comprehensive explanations with regard to more general transformations in policing and social control. However, to the extent that the

phenomenon of private security cannot be abstracted from these more general transformations, which is an argument generally embraced by the literature in question, these conceptions are employed to describe, evaluate and draw critical conclusions on the dynamics, processes and outcomes of the privatization of security. The discussion below will also follow a similar strategy.

The available complex, and sometimes competing, theorizations can be grouped under two broad headings, which are informed by distinct theoretical outlooks in the literature. On the one hand, a considerable amount of the literature develops an institutional analysis of the transformation in question within a Weberian perspective. This body of literature mainly puts greater emphasis on the declining power of the state in exercising the monopoly over the legitimate use of force, and on the pluralisation of the actors and mechanisms in the processes of social control. What is emergent, it is argued, is a world of plural policing within which the state has almost lost its centrality with regard to the processes of social control and policing. The other wave of discussions has fundamentally rejected such dichotomies as state-society, law-violence, public-private, etc. Having inspired mainly by the power perspective of Michael Foucault, the scholars in this theoretical camp try to understand the changing nature of policing processes with reference to a broader transformation from discipline society to neoliberal governmentality. On such grounds, the general character of transformation is conceptualized with reference to this fundamental transformation, within which the neoliberal market rationality has reconstructed all social spheres including the issue of security in line with the commodity logic of capital. In such analyses, the conceptions of omnipresent and omnipotent power, governmentality, constitution of "free and responsible" subjects and the like occupy central place in understanding the transformations underway.

This chapter will try to make a critical analysis of these two sets of arguments, which have seemed to become dominant conceptions or "ruling orthodoxies"[2] in producing knowledge over the issue of transformations of policing. To this end, the main arguments, premises, historical-cum-theoretical presuppositions of these perspectives on issues such as state, monopoly over the means of violence, and policing will be identified in an attempt to portray how these presuppositions are translated into the contemporary conditions. Then, the last part of the chapter will draw "post-critique inferences" from the central fallacies, problematic assumptions and/or significant gaps that have been (re)produced within the *emergent orthodoxies.* On the basis of this critique, the central alternative proposition of the thesis will be presented in line with the structure of the argumentation to be developed in Chapters 3 and 4.

2.1. FROM WEBERIAN MONOPOLY TO PLURAL POLICING

The modern state, Max Weber famously argued, "... is a human community that (successfully) claims the *monopoly of the legitimate use of physical force* within a given territory" (1983: 111; emphasis in the original). This commonly cited definition of the modern state rests on a particular sociological understanding which places specific emphasis on the *means* peculiar to the state, rather than the *ends* of it. That is, for Weber, the use of physical force, though not being the only one, is the means peculiar to the state. On the basis of this important argument, there has emerged a strong tradition to conceptualize the modern state with reference to the organizational-institutional embodiment of the monopoly over the use of force in the form of centralized and bureaucratized institutions, most importantly the army and the police. The hallmark of the (neo-)Weberian perspectives is the argument about the historical-institutional separation of the army, as a professional military

[2] I owe this phrase to Coates (1999).

apparatus of the state directed towards external threats; and the police, as a bureaucratic institutional organization tasked with the maintenance of order and enforcement of law internally. Developed through the fruitful discussions of historical sociologists such as Charles Tilly (1990), Michael Mann (1988b; 1993), and Anthony Giddens (2005), this historical separation has vested the modern police with the exercise of the monopoly over the use of force in the internal jurisdictional domain of the state. On this basis, there is a commonly held perception that the modern police represents the institutional embodiment of the use of physical force, through which the state penetrates into the society (Mann, 1988b). In other words, it is the primary exemplar of the rise of infrastructural power of the state (ibid), which historically functioned for the internal pacification of society (Giddens, 2005: 240-254).

The contributions coming from historical sociology have substantially strengthened the original Weberian thesis by demonstrating the social struggles and contradictions through which the modern police came into existence in the processes of the formation of the modern state. However, the original Weberian thesis deserves particular criticism with respect to the monolithic assumption that the state building processes resulted in an all-encompassing transformation by means of which state monopoly over the use of physical force has been successfully established. In fact, in the next chapter, this criticism will be substantially developed on theoretical and historical grounds in order to propose an alternative framework to understand the historical specificity of the capitalist state in relation to organization of coercion in modern society, and to underline the permanence of the private forms of policing in the heydays of the modern state. Through such an analysis, a kind of a post-Weberian pathway will be constructed to make sense of the particular phenomenon of state monopoly over legitimate violence within a critical political economy perspective informed by class analysis. However, for the time being, it is important to make sense of how this conventional Weberian conception informs the contemporary scholarly discussions on the transformations of policing in general, and the privatization of security in particular.

The first and foremost observation to be made on the neo-Weberian institutionalist accounts[3] is that they take this original Weberian thesis for granted, and on this basis assert that a kind of a fundamental shift in this conventional wisdom has emerged in the process of proliferation of various actors of policing such as private security, community policing, citizen patrols and the like. What is underway is arguably "a historic restructuring" (Bayley and Shearing, 2001: vii), or "a quiet revolution" (Shearing and Stenning, 1981: 193) in the processes, mechanisms and actors of policing. Speaking especially within the context of the Anglo-Saxon countries like the US, Canada and UK, Bayley and Shearing argue that the extent of this radical transformation has amounted to a "watershed" that the modern democratic societies have reached "... in the evolution of their systems of crime control and law enforcement. Future generations will look back on our era as a time when one system of policing ended and another took place." (Cited in Loader, 1997: 377).

To the extent that the transformation underway refers to a radical novelty, it cannot be understood with reference to conventional terms such as state monopoly over the legitimate violence (Bayley and Shearing, 2001: vii). A kind of a crisis in the conventional understanding of the police has emerged because ".... the monopoly over policing that the police have for many decades assumed they had has rapidly evaporated. Put badly, the police simply do not

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[3] It is important to underline the fact that the scholars in the theoretical outlook of plural policing do not explicitly call themselves as (neo-)Weberian. In fact, they do borrow ideas and conceptual outlooks from a variety of traditions like the actor-network theory of Manuel Castells, libertarian outlook of Michael Walzer, power perspective of Michael Foucault, the theory of regulatory state as developed by such scholars as John Braithwaite, and some versions of post-modern or post-structuralist thought. Therefore, one can rightly conclude that what they theoretically come up with in explaining the transformations of policing in general and privatization of security in particular is a kind of an eclectic mixture of different theoretical traditions. Nevertheless, it is the contention of the thesis that they can be analytically categorized into the neo-Weberian institutionalism. The reasons for such a categorization are two-fold. Firstly, as already underlined, they do reproduce the conventional Weberian assertion about state monopoly of legitimate violence. On this basis, they argue about a radical transformation from monopoly to pluralisation in the processes of policing. The second reason for this categorization is that they tend to perceive the emergent forms of policing such as private security and community patrols with reference to an institutionalist social ontology. That is, they perceive the world of plural policing as formed by the existence of autonomous and externally related institutional agencies of security. This institutionalist ontology is coupled with a kind of empiricist epistemology in understanding the social phenomena.

monopolize policing (assuming, of course, that they ever did) any longer" (Shearing, 2005: 59). With a quest to distance themselves from what they call state-centred approaches to security, the scholars of pluralisation thesis propose alternative conceptions like "governance of security" instead of the established notion of "policing" (Shearing and Wood, 2003a: 402; Shearing, 2001: 203; 2005: 58).

The contemporary process of pluralisation has resulted in the fragmentation of the auspices and providers of security. The modern state, which once established exclusive claim over the organizational auspices and institutional embodiment of the use of physical force, is no longer the only actor in the authorization of policing. It has to share the power of authorization with economic interest groups (both legal and illegal), residential communities, cultural communities and individuals (Bayley and Shearing, 2001: 5-11). These sources of authorization have been accompanied by the multiplication of the providers of policing, which is exemplified, alongside the continuation of the state police, in the emergence of commercial security companies, non-governmental and non-commercial auspices, and individuals in the provision of security. This fragmentation is expressed in more concrete terms by Shearing and Wood, who assert that four "sectors" of governance of security can be identified with respect to the current policing processes: the state, business corporations, non-governmental organizations, and the informal sector, which is made up of people outside the first three governmental sectors (2003a: 405).

Proposing a similar argument, Ian Loader identifies the following developments in the policing processes: (i) the resort to the private modes of security by government and business organizations; (ii) the intensified involvement of local authority in security provision, as in the cases of Closed Circuit Television (CCTV) systems and local "community patrols"; (iii) the proliferation of citizen patrols; (iv) an increasing deployment of technological devices for crime prevention (alarms, bars, gates and so on); and (v) the resort to the commercial security companies for the security of residential areas (1997: 377-78). The transformation in question is a historic one from state's

exclusive claim of monopoly over the use of physical force to a "fragmented", "diverse", "networked" policing. In the words of Loader: "We inhibit a world of plural, networked policing" (2000, 324), which refers to "a plethora of public, commercial, and voluntary agencies" which are increasingly determined with reference to "people's willingness and ability to pay" (1997: 377, 378)

Zedner provides another Weberian account about the transformation of contemporary policing. She mainly argues that the multiplication of the policing agents has not of course replaced the state police; however, it has rendered it "one agency among many" (2006: 82). What is emergent, for Zedner, is "the extended policing family", "light blue policing", pluralism and partnership, or the "Balkanization" of policing. Locating this picture in a broader historical setting, she argues that issues like prevention of crime, maintenance of order and apprehension of offenders were tasks shared by private citizens, communities and private security agencies in the pre-modern societies. Therefore, for Zedner, "... the symbolic monopoly on policing asserted by the modern criminal justice state may just be a historical blip on a longer term pattern of multiple policing providers and markets in security" (ibid, 78).

What these scholars come up with in this world of multiplicity of governance authorities and providers is the shift from *state-centred to nodal governance* (Shearing and Wood: 2003a, 401). Within their institutionalist ontology, they define "[g]overning nodes [as] organizational sites (institutional setting) that bring together and harness ways of thinking and acting where attempts are made to intentionally shape the flow of events" (Wood and Shearing, 2006: 3). Within this context, they claim that the central question of governance actually blurs the distinction between state and civil society to the extent that "the state becomes a collection of interorganizational networks made up of governmental and societal actors with no sovereign actor able to steer or regulate" (Rhodes, cited in Loader, 2000: 329). Here, the state is understood as a "regulatory state" which cannot be characterized by "rowing" the policing, but "steering" the

multiple nodes of security governance (Shearing and Wood, 2003a: 411; see also Braithwaite, 2000). By elaborating on Osborne and Gaebler's prescription for states to "ster" more and "row" less, Wood and Shearing argue that:

> The devolution of rowing has been justified on the grounds of efficiency and economy in service provision, while the retention of the steering function is seen as central in order that the 'public' good of security is distributed in accordance with the 'public' interest. To steer governance is not only to authorize and legitimate rowing, it is to ensure that this rowing is regulated (2006: 2).

This means that the state draws the necessary legal-institutional framework within which the other nodes of security operate and interact with each other. On the basis of such arguments, the main contemporary problem for the issue of policing, the Weberian-inspired scholars argue, is *the (democratic) governance of security*, i.e. how to create institutional grounds for democratic articulation of the tasks performed by various actors (Loader: 1997; 2000; Shearing: 2001; 2005; Zedner: 2006). In other words, what is at stake is not the question of state, which "... is quickly disappearing behind us, [but] the question of democratic regulation of actually existing processes of social control ...", as Dairo Melossi puts forward (Cited in Loader: 2000, 323). In order to *resolve* this emergent problem, they resort to normative political and libertarian outlooks by borrowing ideas from many scholars like Michael Walzer.

In fact, such a conclusion reveals the inherently eclectic and fragile theoretical framework drawn by the institutionalist perspectives on plural policing. Therefore, it is important to develop a critical discussion on the problematic points this vast literature has been continuously producing in order to make sense of this inherently fragile framework, and to establish an alternative pathway to understand the transformation underway. First of all, to the extent that they rely on a monolithic conception of Weberian monopoly, they tend to regard the pluralisation issue as a kind of radical transformation. That is, their assertion on contemporary transformation is fundamentally conditioned by and restricted to the way they historically understand the state-coercion nexus in a

monolithic framework. As will be comprehensively discussed on theoretical and historical grounds in Chapter 3, such a perception does not enable one to trace out the significant continuities in the private provision of security in the era of "criminal justice state".

On the other hand, the assertion of radical fragmentation and pluralisation of policing does not adequately capture the transformation underway. This is because it rests on a particular institutional ontology as if the contemporary forms of policing are constituted in abstraction from the restructurings taking place in state power in the era of neoliberal globalization. Contrary to such arguments, Trevor Jones and Tim Newburn maintain that the notion of "the formalization of social control" better grasps the developments underway rather than "fragmentation of 'policing', with non-state provision benefiting at the expense of public constabularies" (2002: 139; see also Jones and Newburn, 1999). This critique is quite significant to understand the point that these novel forms of policing are incorporated into the state sphere resulting even more authoritarian reproduction of state power in the social body. Hence, even though the neo-Weberian perspectives seem to acknowledge that the proliferation of different policing forms brings a much more intensified fabric of social control (Shearing, 2005: 59), they tend to disregard the authoritarian restructuring of the state at the heart of all these transformations.

In fact, this point should be evaluated within the context of the second critique developed against the neo-Weberian perspectives. It is concerned with the problematic conception of state underlying the circles of pluralisation thesis. As discussed above, they depict a picture within which the state monopoly over the use of physical force has gone through a radical transformation, as a result of which the state has been rendered "one agency among many". In the nodal governance approach to security proposed by Shearing and Wood, "no set of nodes is given conceptual priority" (2003a, 404). This means that the state has lost its centrality in the social body and can be considered as just another form of organization of power. However, as Swyngedouw argues, the arguments

about “the disappearing state”, as stated above, takes away the attention from the increasingly authoritarian face of state apparatus (2000: 68).

As a third point of critique, neo-Weberian approaches tend to conceive the market as a sphere of freedoms and choices. This sphere therefore is able to provide means of democratic governance because the new market-based nodes of security force the governmental authorities to be more accountable as the whole mechanism depends on the consumer choice. For instance, Wood and Shearing come up with the following assertion: “[t]o the extent that weak governmental actors are able to increase their control over the steering and the provision of governance through nodal access, the ideals of democratic governance are likely to be enhanced” (2006: 12). The institutionalist perspectives, even though they rely on glorification of market, do aware of the *class content* of the transformation underway. However, this is the point where their fragile and eclectic theoretical framework reveals itself. Within their problematic theoretical framework which does not take class and property relations into account, they find themselves caught in the problem of trying to resolve the question of “governance disparity” (Shearing and Wood, 2003a: 412). While discussing this particularly contested issue, however, they reproduce the problematic assumption of the market. For example, Shearing and Wood argues that “... it is not markets so much as inequality of access to purchasing power and budget ownership that is the source of the problems” (2003a: 414). The theoretical framework of institutionalist analyses of contemporary policing is fragile to the extent that they do not question the class content of the transformation underway. Therefore, they find themselves in resolving the deepening class contradictions through the commodification of policing with reference to a “normative” agenda (ibid). This is attempted to be done through the normative libertarian worldviews borrowed from such scholars as Michael Walzer.

It is the contention of the thesis that this particular issue of democratic governance is of a more serious nature than thought of because of the seemingly contradictory picture of neoliberal transformation which produces a

more authoritarian and coercive state practices both locally and globally while promising the ideals of democracy and human rights. It is neither a question about the democratic articulation of "multiple institutional nodes", nor an issue that can be resolved with reference to some normative agendas. To the contrary, it reflects the inherently contradictory relationship between capitalism and democracy, which is exemplified in the powerful erosion of liberal democratic institutions and practices in the era of neoliberalism (see Barchiesi, 2006; Bonanno: 2000; Bonefeld: 2006; Brown: 2003; Iturralde: 2008). Therefore, a historical-cum-theoretical analysis, as will be developed in Chapter 3, will demonstrate the historically contingent and contradictory formation of this relationship. This will in turn provide important theoretical means to make sense of the concrete historical transformations in the process of privatization of security in Turkey, which is a topic to be discussed in Chapter 4.

2.2. FROM FORDIST DISCIPLINE TO NEOLIBERAL GOVERNMENTALITY

The modern society has been subjected to a radical critique in the writings of Michael Foucault, who developed a genealogical understanding of the development of power in modern society from the mid-16th century to the 19th century (see Foucault, 1991; 2007). In his story, a historical development from sovereignty to discipline characterizes the modern world. In the pre-modern era, power was equal to the sovereign authority of the monarch or prince and it was fundamentally "negative" in the sense that it constrained the subjects, negated life and was based on overt violence to reproduce itself. However, with the development of modern institutions such as schools, hospitals and welfare agencies, a historic development took place towards the disciplinary power, which has been substantially "positive" in the sense that it is reproduced through life-affirming and productive measures (Keskin, 1996: 121). Even

though this process has redefined the exercise of power in a less violent manner, power has become more strongly penetrated and diffused into the depths of society. The 19th century is marked by the eventual consolidation of the disciplinary power in the modern world.

In his analysis, the main concern of Foucault is to reveal the ways in which the subject is constituted as subject through power relations. Therefore, for Foucault:

> ... rather than asking ourselves what the sovereign looks like from on high, we should be trying to discover how multiple bodies, forces, energies, matters, desires, thoughts and so on are gradually, progressively, actually and materially constituted as subjects (2004: 28).

The question of *how the subject is constituted as subject* is answered by Foucault with reference to the notion of govern-mentality, which refers to "the ensemble formed by institutions, procedures, analyses, and reflections, the calculations and tactics that allow the exercise of this very specific albeit complex form of power..." (1991: 102). Within this framework, the main question of modernity for Foucault "... is not so much the statization of society as the 'governmentalization' of the state" (ibid). At this point, it is important to underline the point that there is a significant difference between the disciplinary power and governmentality. While the former refers to the constitution and regulation of the bodies within institutional spaces such as schools, factories, hospitals and prisons, the latter is concerned with the matter of *constitution and management of populations at a distance* by means of monitoring and surveillance, statistical analysis and modelling, and interventions in the name of welfare and productive efficiency of the populations (Joseph, 2007: 5).

Foucault was thinking of a broad historical development toward the establishment of the modern power; however, he can be regarded as "the great

theorist of [F]ordist mode of regulation" (Fraser, 2003: 160).[4] It is so because through the lenses of Foucault "... social services became disciplinary apparatuses, humanist reforms became panoptical surveillance regimes, public health measures became deployments of biopower, and therapeutic practices became vehicles of subjection" (ibid). Perceived as such, the power is organized and continuously reproduced on the "capillary levels" of society such as factories, hospitals, schools welfare agencies, civil society associations and the like.

The main features of the Fordist discipline society were that it was *totalizing*, i.e. rationalizing all major aspects of the society, *socially concentrated within a national frame*, and based largely on the *individual self-regulation* (Fraser, 2003: 162-165). However, in the era of neoliberal globalization, all of these central tenets of the Fordist discipline have gone through a radical transformation producing *a multi-layered system of globalized governmentality* (ibid: 166). Within this framework, the Foucauldian-inspired scholars understand neoliberalism as a mode of regulation, as Clarke states, through "a set of policies, practices and relations that are central to the management of subject populations and their conduct" (quoted in Ruben and Maskovsky, 2008: 200). Here, the neoliberal governmentality refers to the advent of the neoliberal forms of subjectification, through which the political and the social is restructured in line with the logic of the economic, producing individualized and marketized subjectivities (ibid).

Within the context of the neoliberal transformation of social control processes, the Foucauldian-inspired scholars discuss the emergence of private security, community policing and vigilantism on the one hand, and the consolidation of dystopia of panopticism on the other. The discourses of market freedom and individual choice have been carried to the domain of security in a way to make the subjects responsible for their own security by either resorting to the private security guards or directly taking the task in their hands as in the case of

[4] Even though Foucault did not commit himself explicitly to such a project, the argument of Fraser (2003) seems convincing due to the general picture drawn by the former.

community policing and mob violence or vigilantism. In fact, the governmental rationality in both cases is more or less the same. The individuals are directly encouraged to take part in the delivery of the security provision in the cases of private security and community policing while the vigilantism corresponds to a much more complex process in which the individuals/a number of people take *the responsibility* to restore justice by directly resorting to violence against the law-brokers, an act which can result in death. Therefore, the neoliberal governmentality, informed by the logic of "free and responsible" individuals, repositions the individual/social groups as subjects. This ultimately refers to *governing at a distance* (see Miller and Rose, 2008).

Examining the recently rising lynching events in Bolivia, Daniel M. Goldstein puts forward that what is at stake is the "privatization of justice", empowered by the "flexibility" and "responsibilization" and it refers to the *cultural logic of daily administration of the social life* in the neoliberal urban space (2005: 392). In other words, the violence in the form of lynching becomes a *communal strategy for survival*, or for resolving social problems (ibid, 395). As such, it strengthens the authority of the state as the people began to act as the agents of state authority. However, because these events constitute resorting to violence out of the institutional frame of the state, they also carry the danger of the erosion of state authority and legitimacy. Zeynep Gambetti develops a similar argument within the context of Turkey while trying to explain the recent rise of lynching events in the country. Neoliberalism, for the author, produces the forms of subordinate relations by means of the actors that are not part of the state apparatus. This is what the author calls as "the democratization of terror or violence" (Gambetti, 2007). These two processes refer to technologies of government in the neoliberal era. Even though they potentially have the danger of eroding the legitimacy of the state's power, they reconstitute the citizens as *the eyes and ears of the police* (Shearing, 2001: 212) or as the *extra eyes of the government* (Reiner, 1992: 767).

The second aspect of the transformation of social control processes is the proliferation and intensification of the surveillance practices in the neoliberal

urban space. First envisaged by Bentham in the late 18th century as an architectural tool to obtain order and control, the panopticon seems to be well established in the contemporary world by means of the technologically sophisticated techniques of surveillance. But this time, not a mere architectural structure, but an entire social fabric seems to become as a panopticon. Stephen Gill defines panopticism as "… a dystopia latent in modernity … which reduces the individual to a manipulable and relatively inert commodity" (1995b: 2). The panoptic power practices have arisen in the last three decades, but more intensified especially after the rise of a universal state of emergeny in the aftermath of the 9/11 events (Dolgun, 2008: 241). The most discussed aspects of the constitution of a surveillance society is the establishment of CCTVs, as means of electronic surveillance that keep almost every spheres of the urban space under constant surveillance.

These contemporary Foucauldian-inspired analyses can be criticised on the basis of two important fallacies associated with the Foucauldian discipline society, for the former have uncritically reproduced them within the context of the contemporary discussions about neoliberal governmentality. Firstly, the Foucauldian theoretical framework fundamentally fails and consciously refuses to theorize state power. In his theory of power, Foucault refuses to incorporate the central role played by the state into the general picture of the constitution of the subject. In fact, Foucault considerably advances our understanding of power in pointing out the constitution of order and subject through power relations, and in underlying the central role of the administration in the constitution of order (Neocleous, 1996: 57). However, he gives importance to the state insofar as it is "superstructural" manifestation of the power relations in the social body. Furthermore, he proposes *to cut off the king's head* in political philosophy because the analysis of power do extend beyond the limits of the state (Cited in ibid: 60, 63). Against Foucault, Marc Neocleous raises a convincing argument that the exercise of power expressed in the form of political administration cannot be abstracted from our understanding of the capitalist state. The conception of police as a governmental strategy of management of populations has been also promoted by Foucault and his

followers. However, they tend to undermine the question of the state as the central locus of power relations in society. Therefore, as Kalyvas suggests, "the multiplicity of microtechnologies of power and their diffuse character have substantially undermined the image of the state as a pivotal and sovereign power centre and as the main location of political domination" (2002: 106).

Another central critique against Foucault can be waged from the point that he downplayed the projected aims of power relations and their ultimate experience on the part of the subordinate. This refers to the gap between the intentions and material practices (Göral, 2007: 23). This particular point, for Kent Schull, shows that Foucault stays at the realm of "the ideal" (2007: 51-52),. This means that he prioritizes the intentions over the concrete historical practices, which refers to the problematic assumption that once the public authorities declare a particular reform he comes to the easy conclusion that they are implemented. This central point directs one's attention to the question of struggle in Foucault's power perspective. As Özgür Sevgi Göral contends, the power relations do not take place on an empty space, but they are at the locus of the modern state power (2007: 25). This does not mean that the police was a mere coercive institution of the state, but it was an institution on which the subordinate classes played strategic or tactical games to exploit the universal framework to the fullest. Foucauldian framework proposes that the process of the constitution of subject is depicted as a one-way route existing independently from the question of struggle. This means that "the deep structuralist neglect of the question of agency" (Neocleous: 1996, 58) mistakenly depicts the objects of administration as *docile bodies*, and avoids answering such questions as "who has the power?", or "for what purpose is it exercised?" (ibid). This neglect consequently renders Foucault unable to explain "the equation of carceral with bourgeoisie society". In other words, Foucault is forced, due to his own theoretical preoccupations, to discuss "the disciplinary methods' increased 'effectiveness' without ever adequately explaining what this means" (ibid: 63).

These two mistaken depictions have been uncritically reproduced in the contemporary discussions over neoliberal governmentality. As discussed above, the majority of scholars tend to explain a shift from discipline to control society, which is managed by means of the novel techniques of government such as "responsibilization", "ruling at a distance", "governing through freedom". Here, neither the question of the institutional materiality of the state nor the agency of the subject is incorporated into the discussion. This eventually prevents these theoretical frameworks from grasping the changing nature of capitalist social relations of production and the emergent forms of capitalist state in relation to the transformations taking place in its policing power.

2.3. POST-CRITIQUE INFERENCES

Both of the above grouped theoretical frameworks do capture a particular side of the story and provide meaningful explanations to grasp the transformation of the coercive state apparatus and the multiplication of the mechanisms of social control.

However, the particular ontological framework of the neo-Weberian analyses leads to the problematic position that the current developments have brought a kind of "democratization" to the processes of policing the social. The thesis positions itself as opposed to this institutionalist reading, and will contend that the "pluralisation of policing" does not produce civil or democratic processes; just the contrary, it is indicative of the even more authoritarian restructuring of the capitalist state power. For, *private* forms of policing are not constituted and operating in abstraction from the *public* power, and what emerges is a peculiar amalgamation of public and private forms of power defined with reference to the neoliberal accumulation regime, and thereby with an overt class bias. Foucauldians on the other hand denounce the state as a valuable object of

analysis in favour of irreducibly dispersed formation and operation of power relations. The state then becomes nothing more than a mere *epiphenomenal* attribute to power relations. Hence, even though they do have a strong explanatory power in revealing the processes of privatization of security, and thereby the restructuring of power relations in the social, Foucauldians fail to conceptualize the *class character* of the transformation underway and the constitutive presence of the state power therein.

These two sets of arguments hence lack an adequate theorization of the state and its relationship with the social classes within the specific context of the organization of coercion. Accordingly, they miss the important point that the phenomenon of the privatization of security is directly related to the historically contingent and contradictory relationsip between *state power* and *class power* crystallized in different forms in different historical and social contexts. This thesis will try to construct an alternative theoretical-cum-historical framework as opposed to these dominant conceptions. This alternative reading will assess the state-coercion-class relationship as a contradictory and contested phenomenon historically formed and reformed in and through the struggles of social classes. In this regard, the formation of the public police will be analyzed as a significant, albeit fragile, manifestation of the historical specificity of the capitalist state, which acquired a bourgeois character in the 19th century. Conceived as such, the formation of the public police cannot be viewed as a radical process of monopolization of means of violence by the state, as the conventional Weberian accounts have made us believe. This is because of the strong persistence of class-based forms of policing in the heydays of the modern state. Therefore, the internal pacification of different European societies in the 19th century did not mean the total elimination of the private forms of policing, but the incorporation of these forms into the institutional materiality of the modern bourgeois state. Nor can this process be reduced to the dispersed governmental rationality of liberalism and modern disciplinary society, as Foucauldian approaches claim. It was rather the case that the social struggles and contradictions were constitutively present in the processes of the formation of the police, which was one of the

most explicit manifestations of the “modern disciplinary power”. Thence, the central questions of state and class cannot be abstracted from the analysis here. In the following Chaper, an alternative historical and theoretical perspective will be proposed to make sense of the organization of coercion in modern capitalist societies.

CHAPTER 3

THE FORMATION OF THE PUBLIC POLICE AND THE MODERN BOURGEOIS STATE: THEORETICAL AND HISTORICAL INTERROGATIONS

3.1. INTRODUCTION

The question of policing refers to a general problematique in the organization of coercion and historical constitution of the forms of states in class societies. Anthropological studies have argued that the key historical phenomenon to the emergence of the state and thus various forms of coercive apparatuses correspond to transition from stateless to a state society (Robinson and Scaglion, 1987: 118). This assertion leads to the general argument that the historical development of class societies on the basis of different social property relations gives rise to different forms of coercive domination materialized and institutionalized in the juridico-political field, i.e. the state, which takes different forms in accordance with the form of surplus appropriation in question. That is, policing as a form or practice of political domination is to be understood within the context of social property relations and corresponding forms of exploitation within definite historical and social conditions.

In fact, the discussion here refers to a much more fundamental problematique concerning "the role of force in history". At this point, it is important to attract attention to Friedrich Engels in his discussion with Eugen Karl Dühring, a German philosopher and economist who was critical of Marxism in the second half of the 19th century. Being at fundamental odds with the idea of the primacy of the politico-coercive power over production relations and private property proposed by Dühring, Engels clearly maintained that the constitution of private property can never be realized through force (1979: 35). For him, force can

only be used to change the possession of private property, but not to initiate the creation of it (ibid: 28, 29). What Engels' discussion underlines though with an economistic emphasis here is how social relations of production condition the specific form of political domination, which does not actively create class divisions but maintain conditions of class exploitation. This does not necessarily lead to a reductionist assertion that the politico-coercive power is nothing more than the epiphenomenal attribute to the base. The translation of this fundamental argument into the analysis of historically specific forms of surplus appropriation was provided by Karl Marx, who states that:

> The specific economic form in which unpaid surplus labour is pumped out of the direct producers determines the relationship of domination and servitude, as this grows directly out of production itself and reacts back on it in turn as a determinant. On this is based the entire configuration of the economic community arising from the actual relations of production, and hence also its specific political form. It is in each case the direct relationship of the owners of the conditions of production to the immediate producers – a relationship whose particular form naturally corresponds always to a certain level of development of the type and manner of labour, and hence to its social productive power – in which we find the innermost secret, the hidden basis of the entire social edifice, and hence also the political form of the relationship of sovereignty and dependence, in short, the specific form of state in each case (Cited in Teschke, 2003: 55).

These central ideas open the way to analyze the historically specific forms of policing and their class content in pre-capitalist and capitalist societies. A theoretical-cum-historical analysis of social property relations under pre-capitalist modes of production would hence provide a comparative theoretical-historical framework to understand the centrality of coercion in pre-capitalist societies on the one hand and the historical specificity of the capitalist state power on the other.

This chapter tries to develop such an historical and theoretical discussion on the police in modern society by making sense of the forms of policing in pre-capitalist and capitalist social formations comparatively. This analysis attempts to illustrate two significant points which will be repeatedly referred to

throughout the thesis: (1) the alleged impartiality or the claimed class-neutrality of the capitalist state power; and (2) the permanence of the *private* forms of policing in the heydays of the modern state. The first point helps to underline the specificity of the politico-legal organization of power in capitalism, which lies in the apparently constituted distinction between *class power* and *state power* ultimately defined with a bourgeois character in the 19th century. The latter one raises an inherently posed challenge to the class-neutral claims of the modern bourgeois state. Since these two theoretical-historical arguments occupy the central place in the present chapter and constitute the backbone of the discussion on Turkey in the rest of the thesis, it is important to make clear what these two points mean within the specific context of the thesis.

3.1.1. On the Modern Bourgeois State, the Public Police and the Alleged Impartiality

The first central argument the chapter tries to develop is on the historically specific nature of the modern bourgeois state, which is allegedly constituted in the form of impartial, impersonal and class-neutral organization of politico-legal power under capitalism. Grounded in the "real-and-illusory" distinction between the economic and the political (Clarke, 1991a: 44), the bourgeois organization of politico-legal power in the centralized institutional structures of the state presents a central challenge to make sense of the modern police. It is a challenge arising from the "double-edged" nature of the police in modern society (Tilly, 1985: 170-172), which is not only an apparatus of overt application of coercion, but also an allegedly impartial institution in need of constant public support or consent in society. Robert Reiner underlines this point by stating that "policing is an inherently conflict-ridden enterprise" since both force and consent are involved in any practices the police undertake (2000: 49). These practices are socially located in a "precarious position" in the sense that a kind of a mixture of contestation and acceptance are at stake on the part of the social classes (J. C. Wood, 2003: 9). Historically speaking, the formation of the modern police has been in one way or another a "bargaining

process" through which the legitimacy claims of control/surveillance practices of the state were gradually, but after a contested period, established (Ergut, 2004; J. C. Wood, 2003).

This means that the modern police has come out of a double, contradictory and dynamic origin, and always possessed a kind of a "schizophrenic image" (Robinson and Scaglion, 1987: 114), which is discursively and materially constituted in relation to social classes and struggles. That is why it cannot be limited to a question of mere political domination through overt coercion, even though it is "the cutting edge of state's knife", in David Bayley's words (Cited in Ergut, 2004: 13). The rather complex problematique of consent is part and parcel inherent to the modern organization of policing in the form of centralized public institution. "Policing by consent", however, does not necessarily refer to the "universal love of police", but to the specific argument that "those at the sharp end of police practices do not extend their resentment at specific actions into a generalized withdrawal of legitimacy from the institution[s] of policing *per se*" (Reiner, 2000: 49; see also J. C. Wood, 2003). Historically, the formation of consent over the police practices involved complex and often contradictory interactions of discursive and material practices which were ultimately resolved in and through the struggles of social classes in the 19th and the 20th centuries.

It is of paramount significance then to make sense of the theoretical and historical implications of this "double-edged" nature or "schizophrenic image" of the police in modern capitalist societies. It is therefore a question of not only the repression of lower classes, but also the fabrication of popular consent in society at large. In their significant work on the historically contested process of English state formation, Philip Corrigan and Derek Sayer touch upon this contradictory phenomenon within a more general context by stating that:

> As labour in production it had to be free(d) to be exploited; as labour in society it had to be moralized, normalized, individualized. It had to be simultaneously 'freed' and 'regulated'; forced and yet (positively) willed into new

> ‘stations’; coerced and yet, gradually, to be sure, consented into democracy (1985: 118).

Thence, as being one of the central aspects of state formation, the historical formation of the modern police refers to the problematique on the incorporation of the working class into the bourgeois democratic institutional structures of the state. As Reiner reminds, the working class was the main source of hostility to the “new” police in the first half of the 19th century (2000: 50); and this hostility was gradually converted into a kind of consent over *the public role of the police*. In the very process of the fabrication of consent, the lower classes developed everyday forms of strategic tactics to exploit the existing politico-legal framework and even to force it into the barriers of its own reproduction (F. M. L. Thompson, 1981). That is, once established with reference to universalistic claims of class-neutrality and universality, the politico-legal framework of the modern police did provide a strategic plane for the lower classes, through which they did accept the public police as a *legitimate* institution and “made considerable use of them” (Jones, 1982: 166).

In fact, such a central institutionalized form of the capitalist state power as the public police has long been ignored as a valuable object of analysis in the history of social sciences (Ergut, 2004: 11). The formation and path-dependent development of the modern police in different social formations have been relatively neglected topics, which attracted critical scholarly attention not earlier than the 1970s. The literature over the issue has long been limited to the manuscripts and other works written by the ex-police officers within a worldview of the progressive history of yet another administrative organization of the modern state. This rather problematic *official history* of the modern police assumed that the 19th century marked a radical rupture from the traditional models of policing, which were characterized by the informal and *ad hoc* methods with overt violence and brutality. Such a system, it was argued, was replaced by a totally novel model of law enforcement in the 19th century with the successful attempts of the state to establish its monopoly over the use of physical force. In this conventional understanding, the police was perceived within a technical and apolitical framework of the “police sciences”,

which presented it as the impartial servant of the rule of law (see Özbek, 2009; Milliot, 2009). As will be discussed in detail below, such a limited conception of the police was the ideological product of the political struggle of rising bourgeoisie from the late 18th century onwards. This materially grounded discursive practice had often dominated the scholarly discussions and public discourse especially until the 1970s.

On the *left* side of the discussion, an equally problematic assumption has long dominated the political-theoretical outlooks. It is the specific argument that the police is nothing more than the mere instrument for the forcible reproduction of bourgeois class rule in the capitalist society. Grounded within the instrumentalist and functionalist accounts of the state, such a perception found traces in the writings of the Second and the Third International, and even in such sophisticated accounts of Marxist theory of law as the one developed by Evgeny Pashukanis (Neocleous, 2000: xii). This was part and parcel of the general conception of the state as a coercive instrument in the hands of the bourgeoisie. After all, the state for Engels and Lenin was a coercive apparatus used to defend the existing economic and political power of the dominant class (Gerstenberger, 2007: 5). Even though these arguments do point out the historical experiences of bourgeois domination through overt coercion mediated by the coercive apparatuses of the state, they tend to disregard the complex and contradictory nature of the issue at the hand. To simply put, the subsumption of the modern police under a trans-historical category of class domination easily downplayed the historical specificity of the capitalist state power as constituted, not only ideologically but also materially, as an impartial and impersonal form of rule with a bourgeois character.

From the 1970s onwards, a particular interest among the scholars from a variety of traditions like historical sociology, radical criminology and political economy has grown to make sense of the issue in a more historically grounded analysis backed by appropriate theoretical conclusions. The following discussion mostly relies on this much recent scholarly literature to develop its own theoretical-cum-historical argument about the historically specific nature

of capitalist state power with a particular and primary focus on the formation of the modern police. As the argument will be gradually constructed, the aforementioned challenge, i.e. the "double-aged" nature of the modern police, can best be met by grounding the analysis in a relational approach which would underline the constitutive presence of the social struggles and contradictions in the process towards the formation of the modern police in the 19th century. Due to the complexity of the path-dependent development of police institutions across the Western world, the chapter will make a general assessment of the formation of the modern police; however, explicit references will be made to the cases of England, France, Germany and the US when and where it is deemed necessary to do so.

On this basis, the central argument to be substantially developed throughout the chapter is as follows: contrary to the conventional accounts, the police in capitalist societies is to be conceptualized not as a *thing* (i.e. class instrument) or an *autonomous institution* (i.e. neutral organization), but as a form of political administration, whose powers and mandate are not merely limited to crime prevention, but extend to a variety of socio-political practices that are directly related to the fabrication of a particular social order. In other words, it is an administrative form of the capitalist state power, strongly penetrated into the "depths" of the society, with a central concern of "fabricating" a particular social order based on the wage relation as the only means of subsistence (Neocleous, 1996; 2000). Furthermore, this form of political administration was defined with reference to alleged impartiality of the public power within the context of social struggles and contradictions in the 19th and the early 20th centuries. However, the alleged impartiality of the modern bourgeois state was always been challenged by the persistent forms of *private* policing throughout the time period under investigation.

3.1.2. On the Permanence of *Private* Forms of Policing

There is a second but much more neglected problematic assumption in the scholarly writings about the modern police: The assumption that monopolization of legitimate force refers to an all-encompassing process through which internal pacification of society was successfully achieved by the modern state in the 19th century. Modernity in this conventional wisdom is depicted as the period of "criminal justice state", which denotes that the state established an exclusive authority over the issues of detection, prevention, prosecution and punishment of crimes, a system composed of cops, courts and corrections (Zedner, 2006). On this basis, it is argued that:

> ... the defining feature of the modern sovereign state is its monopoly of legitimate force within a given spatial boundaries, a monopoly that is principally vested – with regard to internal threats to security at least – in the dedicated, uniformed body we have come to know as the police (Loader: 2000, 325).

The present chapter asserts that this is a monolithic argument which ignores the permanence of the "non-public" practices of policing in the heydays of the modern state, a time period from the late 19th century to the late 20th century (Williams, 2008: 192). In fact, as briefly touched upon in the previous chapter, this monolithic conception arises from a particular reading of Weber on the modern state. Below is the highly cited argument of Weber on the modern state, which is reproduced at length:

> A compulsory political organization with continuous operations will be called a 'state' insofar as its administrative staff successfully upholds the claims to the *monopoly* of the *legitimate* use of physical force in the enforcement of its order … [The modern state] possesses an administrative and legal order subject to change by legislation, to which the organized activities of the administrative staff, which are also controlled by regulations, are oriented. This system of orders claims binding authority, not only over members of the state, the citizens, most of whom have obtained membership by birth, but also to a very large extent over all action taking place in the area of its jurisdiction. It is thus a compulsory organization with a

> territorial basis. Furthermore, today, the use of force is regarded as legitimate only so far as it is either permitted by the state or prescribed by it … The claim of the modern state to monopolize the use of force is as essential to it as its character of compulsory jurisdiction and continuous operation (Cited in Pierson, 2004: 6; emphasis in the original).

What might be expected from this definition is that "a highly centralized state …. would establish an exceptional concentration of authority over the use of force, integrating agents and agencies of that force under one central command and controlling how and when they deploy it" (Zack, 2003: 281). That is, the primary importance in this definition is given to the "control over the means of violence as a defining characteristic of the state" (Pierson, 2004: 6). This in turn produced a particular Weberian conception that *the means of physical force* have been gradually monopolized under the authority of the modern state. The traces of such an understanding can be found explicitly or implicitly in the writings of neo-Weberian, statist-institutionalist accounts of the state such as those of Robert M. Maclver, Shmuel N. Eisentadt, Charles Tilly[5], Dietrich Rueschemeyer and Peter B. Evans (Mann, 1993: 55). Moreover, as discussed in the previous chapter, such a monolithic conception is the central departure point for the contemporary discussions on the "pluralisation" of policing.

It is, however, an argument also shared by the majority of Marxist scholars. One can say that the early accounts of the capitalist state, which perceived it as an instrument of the dominant class, was largely based on this particular Weberian legacy. This legacy has not been abandoned, but reproduced in a variety of contemporary Marxist discussions on state and state formation. For instance, Corrigan and Sayer perceive state formation as a "project of monopolization" through which a form of "legitimated power as monopoly of the means of physical force" is gradually, albeit through a contested process, established (1985: 10). It is an argument also shared by Benno Teschke, who

[5] It is important here to underline that Mann's criticism on Tilly is mainly concerned with the latter's early writings in the 1970s. In his later writings, especially in *Coercion, Capital and European States* (1990), Tilly adopted a more revised understanding on the state monopoly of violence through a historically grounded comparative analysis and within the framework of the formation of modern states in Europe.

perceives the modern conception of sovereignty as being equivalent, among many other qualifications, to the monopolization of the means of physical force by the state (2003, 143).

These problematic assumptions, reproduced within and outside Marxism, opens the way to even more problematic standpoint: acceptance of state monopoly over the use of physical force as a taken-for-granted phenomenon (Sancar, 2000/2001: 28). Haluk Yurtsever exemplifies this historically contested and theoretically inconsistent extreme stance by arguing that the state, whether feudal, absolutist or capitalist, has always maintained its monopoly over "legitimate violence" throughout the history (2006: 107). Moreover, relying on a rather functionalist and instrumentalist account of the capitalist state, he perceives the state as a "sum of coercion" (ibid: 123), and the only subject employing "extra-economic coercion" (ibid: 203).

It is historically contestable argument because the state-coercion nexus has not been constituted in such a uniform, strict and unilinear manner. Therefore, this particular phenomenon cannot be assumed as taken for granted because "[m]any historic states did not 'monopolize' the means of physical force, and even in the modern state the means of physical force have been substantially autonomous from (the rest of) the state" (Mann, 1993: 55). As will be discussed in the following parts, the institutional forms of policing were so diverse across the 19th century Europe that it is a necessity to question the conventional Weberian arguments (Denys, 2010: 333). This is because the states have never established such kind of monopoly "even if we include those forms of violence which are 'licensed' by the state" (Pierson, 2004: 8).

In contrast to this conventional wisdom, some contemporary studies have argued that Weber himself did not reach such an easy conclusion that "the state would necessarily reserve to itself all the lawful use of violence". Instead, what is essential to the modern state for Weber was not its control over the means of physical violence, but its being "the sole source of the 'right' to use violence" (Pierson, 2004: 7). Such a refined argument about Weberian monopoly is shared by many scholars like Mann who argues that the monopoly refers to

"some degree of authoritative, binding rule making, backed by organized physical force" (1993: 55). This revised version of Weber's argument opens the way to a post-Weberian conception of state-coercion nexus. This post-Weberian path therefore should make a conceptual distinction between "monopoly over the use of force" and "monopoly over the definition of the legitimate force". As Ryan and Ward put forward, "the monopoly claimed by the state ... is over the power to *define* the legitimate use of force ... This power does not necessarily depend on the State *owning* the means of force or employing the individuals who use it" (Cited in South, 1997: 109; South's emphasis). Within this context, the historically contested process of *monopolization*, which culminated in the 19th century, was a reformative movement towards limiting the practices of "extra-legal" violence. In this process, certain types of physical violence were *outlawed* while the claim of legitimate violence was gradually and only after a contested process established (J. C. Wood, 2003: 8).

Therefore, it is neither theoretically consistent nor historically defendable to hold the view that the modern state claims a monopoly over the means of physical violence. On theoretical grounds, the public police cannot be seen as a viable means for the capitalists to use as the guardian of private property since the state presents and reproduces itself in an impersonal and impartial form. It is rather that the capitalists defend their persons and property like other citizens "with fences, padlocks, safes, burglar alarms, security guards, store detectives and vigilante patrols without constant recourse to the agencies of the state" (Clarke, 1991b: 186). Historically speaking, there existed many forms of private provision of security throughout the heydays of "the modern criminal justice state", which clearly demonstrates the adverse picture than the one promoted by the monolithic assumptions. In this regard, the following assertion of Simon Clarke provides an important summary of the core argument here:

> While it may be true that under capitalism, as in all class societies, the state *codifies* property rights and *regulates* the use of force, it is by no means the case that the state *constitutes*

> property rights or *monopolises* the use of force (1991b: 187; emphasis in the original).

While proposing such a post-Weberian route to understand state-coercion nexus, it is important to keep in mind that such a reinterpretation does not necessarily lead to the underestimation of the organization of coercion in the form of centralized institutional apparatuses of the modern state. After all, the historically contested project of state formation "... always returns to a project of monopolization", which refers to that "'the State' seeks to stand alone in its authority claims to be the only legitimate agency equally for this and that form of knowledge, regulation or – that wonderfully neutral word – 'administration'" (Corrigan and Sayer, 1985:10). Furthermore, such a quest to re-conceptualize the question of legitimate violence does not ignore the historically significant phenomenon that the rise of modernity has substantially led to the gradual pacification of everyday interactions through a "civilizing process", as Norbert Elias once famously argued. For, the intensification of state formation processes was coupled with and followed by the secular decline in the lethal violence in the everyday relations of individuals in society (Eisner, 2001: 630).

This attempt for reconceptualization rather helps underlining the historically specific feature of the capitalist state: the politico-legal definition and constitution of what is legal and illegal, and the formation of alleged impartiality and class-neutrality on the basis of this very distinction. As will be discussed below, the historical evidence suggests that the formation of the modern police did not put an end to *private* forms of policing or exercise of force, but meant a particular redefinition and incorporation of the extra-legal practices into the legal framework of the state. Particularly important in this process were the popular struggles on the part of the subordinate classes to put pressure on the state as well as the upper classes employing private police to bring them into the universalistic claims of the law. In and through these struggles was the modern bourgeois state form constituted with a specific claim of impartiality. Amidst this very process, however, *private* forms and practices of policing did persist as inherently posed tension to the alleged impartiality of

the state. Therefore, rather than perceiving the issue within the limited understanding of "states gradually monopolizing violence", one should locate the question of private violence within the broader historical-theoretical context of the relationship between state formation, political economy and violence (Mabee, 2009: 139).

3.2. THE OVERT CLASS CHARACTER OF COERCION IN PRE-CAPITALIST SOCETIES

In order to draw a theoretical and historical framework for understanding the historically specific organization of politico-legal power under capitalism, the following discussion will try to understand *the role of force* in pre-capitalist societies. By means of this discussion, it will become clear that the question of coercion was directly, i.e. not in a mediated form, present in the process of surplus appropriation from the direct producers. The entire edifice of the social structure was conditioned by this central phenomenon resulting in the overt class character of the social order and thereby the form of politico-legal power. Thence, the question of coercion was organized, to simply put, as a class tool constitutive in the social property relations.

While the below discussion will make an historical account of this phenomenon, it is of great significance to explore the question at the hand on a more abstract-simple level to complement the historical analysis with a theoretical framework. Hence, the central question of the relationship between the economic and the political in pre-capitalist societies will firstly be discussed at a certain level of abstraction, and then an historical analysis of this relationship will be presented.

3.2.1. Theoretical Postulate: The Unity of the Political and the Economic in Feudalism

In all class societies, the appropriation of surplus labour from the direct producers is realized through two closely related but distinct moments of class exploitation: the moment of appropriation and the moment of application of coercion to enforce otherwise unguaranteed conditions of exploitation (E. M. Wood, 2003: 16). This refers to a fundamental question: the historical constitution of the relationship between *the economic* and *the political* in class societies. These two moments have taken different forms in different modes of production, resulting in diverse organization of politico-legal power throughout the history. The general form of surplus appropriation in all pre-capitalist societies was characterized by the essential unity of these two moments, which ultimately refers to the direct application of extra-economic power for the appropriation of surplus labour from the direct producers. The historical and theoretical pre-condition for such a form of surplus appropriation was the *non-separation* of labour from the means of production, on which Marx states that:

> It is clear, too, that in all forms where the actual worker himself remains the 'possessor' of the means of production and the conditions of labour needed for the production of his own means of subsistence, the property relationship must appear at the same time as a direct relationship of domination and servitude, and the direct producer therefore as an unfree person – an unfreedom which may undergo a progressive attenuation from serfdom with statute-labour down to a mere tribute obligation. The direct producer in this case is by our assumption in possession of his own means of production, the objective conditions of labour needed for the realization of his labour and the production of his means of subsistence; he pursues his agriculture independently, as well as the rural-domestic industry associated with it … Under these conditions, the surplus labour for the nominal landowner can only be extorted from them by extra-economic compulsion, whatever the form this might assume …. Relations of personal dependence are therefore necessary, in other words personal unfreedom, to whatever degree, and being chained to the land as its accessory – bondage in the true sense (Cited in Teschke, 2003: 52).

Marx's central point here is that because the direct producers were not totally separated from the means of production, it entailed a particular social property relation in the form of "a direct relationship of domination and servitude". Here of course the "legal" and "economic" ownership of the means of production, mainly land in pre-capitalist societies, did belong to landlords or imperial power centres; however, the serf had the possession of his parcel of the land which was under protection by customary laws and traditions (Poulantzas, 1978 [1974]: 19).

This was common to various modes of production though it took quite different forms in, for instance, slave mode of production, patrimonial domination under imperial states and feudal relations of lordship. Speaking within the context of feudalism, this unity of the economic and the political took the specific form of "the structural *fusion* of economy and polity" (Anderson, 1974a: 192; emphasis in the original), or "juridical amalgamation of economic exploitation with political authority" (ibid: 147). This refers to the constitutive feature of feudalism: the combination of *private* exploitation of labour with the *public* role of the administration, jurisdiction and enforcement. Therefore, the irreducibly political character of the surplus appropriation made the private property and political authority one and the same thing. On this basis, the abstraction of "political state" was simply non-existent under feudalism. As Marx clearly underlined:

> In the Middle Ages there were serfs, feudal estates, merchant and trade guilds, corporations of scholars, etc.: that is to say, in the Middle Ages, property, trade, society, man are *political*; the material content of the state is given by its form; that is, politics is a characteristics of the private spheres too. In the Middle Ages the political constitution is the constitution of private property, but only because the constitution of private property is a political constitution. In the Middle Ages the life of the nation and the life of the state are identical (Cited in Teschke, 2003: 53).

This unity of the two moments of surplus appropriation makes the locus of power, and thus the class bias of the social order, easily identifiable (E. M. Wood, 2003: 10). This point is closely related to the character of the

"rulership" in feudalism. The ruling power was materialized in the personality of the individual lords, meaning that it was the property of individuals in feudalism. A sphere of rule existing independently from the concrete personal relations of lordship was simply non-existent. Therefore, feudal lordship, as the central form of rulership in feudalism, was a political practice of personalized domination regulated by customary norms and practices, and religious teachings. The entire relations of property was based on a particular conception of "justice", which was not the basis but the function of rule, and gained validity only in connection with an armed sanction (Gerstenberger, 2007: 634-638).

The other constitutive feature of feudalism was "the parcellized sovereignty" (Anderson, 1974a: 148; 1974b: 19). Between the 6th and the 10th centuries, the dissolution of the Roman Empire gave way to "a patchwork of jurisdictions", in which the vertical and horizontal fragmentation characterized the functions of emergent polities (E. M. Wood, 2008: 166). The relatively centralized form of imperial domination was replaced by the geopolitical fragmentation of sovereignty and redefined within the context of aristocratic autonomy. This process itself was a fundamental matter of class struggle between lords and peasants, and between lords and imperial centre, and this struggle was only *resolved* in a particular fusion of public power and private appropriation. This highly contested and violent process included the demilitarization of the formerly free peasantry and the proliferation of new stone castles for local power protection during the violent period of disintegration (Teschke, 2003: 89).

All these taken together, feudal relations of property were based on a political practice of personalized domination founded on territorially fragmented, decentralized public power, which was loosely held together through the bonds of vassalage (Teschke, 2003: 63). Therefore, the fragmentation and privatization of political power referred to the organization of coercion with an overt class bias. In this regard, the ruling class strategy of reproduction was based on this overt and constitutive character of coercion within the existing

social relations of property. Robert Brenner provides an important conceptual tool, namely "political accumulation", to make sense of this point. This central albeit contradictory dynamic of feudalism is explained by Brenner as in the following:

> [T]the long-term tendency, prevalent throughout the feudal epoch (from circa 1000-1100), to 'political accumulation' – that is, the build up of larger, more effective military organization and/or the construction of stronger surplus-extracting machinery – may be viewed as conditioned by the system's limited potential for long-term economic growth, and, to a certain extent, as an alternative to extending or improving cultivation. Given the difficulties of increasing production, the effective application of force tended to appear, even in the short run, as the best method amassing wealth (Cited in Mooers, 1991: 34).

Under feudal *order*, the central strategy of the noble class was not increasing the productivity of the peasants, which is the historically specific feature of capitalism along with other "market imperatives" (see E.M. Wood, 1995; 2003); but continuous investment in the extra-economic means of surplus appropriation. The forms of "feudal appropriation", structured by the lords' possession of power, included not only lordship, seigneury and fiefdom, but also appropriation by war and marriage, and the use of trading privileges sanctioned by the ruling power (Gerstenberger, 2007: 639). The direct possession of the means of subsistence by the peasantry necessitated the organization of political and military power at the hands of the nobility to extract surplus from the former. Under conditions of geopolitical fragmentation, the control over the means of violence was not monopolized by the state, but dispersed among the landed nobility. In this context, the lordly relations were non-pacified and competitive; and if there existed a medieval "state", it was a political community of lords with the right to armed resistance. In other words, on this social property relations arose a medieval polity, which was inherently fragile, non-bureaucratic, territorially dispersed, and prone to disintegration (Teschke, 2003: 87).

The inherently non-pacified relations among the ruling classes, i.e. lords, were parallel to the even more conflictual and coercive relations between lords and

peasants. That is, the lord-peasant relation was based on the coercive constitution and reproduction of the conditions of production on the parts of both subordinate and dominant classes. That is why the Medieval Europe experienced many practices of peasant discontent expressed in different forms and geographical spaces. One of the central forms of resistance was banditry, which was exercised by runaway slaves, peasants and soldiers on whom the burden of exploitation has become intolerable (Mann, 1988a: 52).[6] Furthermore, there were extremely varied forms of resistance, which included, but were not limited to:

> [A]ppeals to public justice (where it existed, as in England) against exorbitant seigneurial claims, collective non-compliance with labour services (proto-strikes), pressures for outright rent reductions, or chicanery over weights of produce and measures of land (Anderson, 1974a: 187).

As stated above, the central lordly strategy against these resistances were to invest more and more on the extra-economic means to secure rents, seize the communal or disputed lands. This conflictual relation based on extra-economic means of reproduction of the social property relations was the main driver of feudalism marching the whole agrarian economy forward (Anderson, 1974a: 188). That is why the unity of the economic and the political under feudalism refers to "... not just a particular connection of 'political' and 'economic'

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[6] In fact, such banditry practices did persist well into the 20th century as a form of resistance to the established social relations of subordination in many parts of the world. Eric Hobsbawm develops an interesting sociological-historical discussion on class positions of the bandits. The central argument he raises is that the social bandits were located in a rather ambiguous social position which is continuously denounced by the state authorities and upper classes as illegal while it is located within the legitimate frontiers of what E.P. Thompson calls as "moral economy" of peasants. The communal legitimacy, within which the practices of especially "social banditry" were grounded, is manifested in the popular culture in a powerful, albeit contradictory, ways (Hobsbawm, 1997). On the other hand, Alev Özkazanç asserts that this ambiguous positioning of the banditry in peasant societies was in one way or another exploited by the rising bourgeoisie especially in the 18th century in its struggle against the feudal constraints and privileges. Coming to the 19th century, the glorification of different forms of banditry became a central object of rejection on the part of the bourgeoisie as it gradually consolidated its social and political power in society (Özkazanç, 2007: 218, 219).. This particular transformation can be observed in the popular literature as well. In his quite interesting study into the social history of detective stories, Ernest Mandel quite powerfully portrays how the "good bandits" were gradually replaced by the criminal characters that were presented as posing threats to private property and rising bourgeois way of life from the mid-19th century onwards (1996).

power, not a connection between two separate spheres, but rather a unitary reciprocal effect." (Gerstenberger, 2007: 639).

3.2.2. Historical Portrayal: Coercion as a Class Tool in Feudalism

The policing practices in pre-capitalist societies were defined within the context of existing social relations of property and corresponding power relations. Under conditions of parcellized sovereignty of the medieval order, there was no centralized and regular system of policing, but diverse and often contradictory forms which were defined with reference to strategies of political accumulation peculiar to the polity in question. This central feature of feudalism has been acknowledged by the conventional accounts on pre-modern policing, which raise such notions as self-help and self-protection as historically being foundational to the enforcement of law and maintenance of social order (Nemeth, 2005: 1). Self-help as the central form of policing continued well into the 19th century, and even the 20th century, as will be discussed in the following parts. However, the diffused practices of coercion were central to the active constitution and contradictory reproduction of social relations of production in pre-capitalist societies. In this regard, Tilly observes that:

> Over most of European history, ordinary men (again, the masculine form of the word matters) have commonly had lethal weapons at their disposal; within any particular state, furthermore, local and regional power holders have ordinarily had control of concentrated means of force that could, if combined, match or even overwhelm those of the state. For a long time, nobles in many parts of Europe had a legal right to wage private war ... Bandits (who often consisted of disbanded segments of private or public armies) flourished in much of Europe through the seventeenth century ... People outside the state have often profited handsomely from their private deployment of violent means (1990: 69).

This entire network of *private* practices of coercion can be summed up under the notion of "policing as collective responsibility", which refers to the

policing practices directly initiated and performed by individuals and classes in society to ensure security of their persons and property and maintenance of social order (Ergut, 2004: 49; Robinson and Scaglion, 1987: 146; Kent: 1981: 31). There even emerged, as in the case of England, peculiar "mentalities" making the physical aggression as the sole means of resolving the communal disputes and punishing the deviants (J. C. Wood, 2003: 4). However, the diffused nature of the means and practices of coercion, defined within the existing social relations of property, were ultimately checked by the oligopolistic concentration of the means of violence in the hands of landlords. As Thompson and Johnson put forward, the violent force in feudal polities was organized in a decentralized and distributed form among "the small armies of wealthy and powerful lords" (Cited in Reyna, 2005: 24). Therefore, keeping in mind that the peasantry was demilitarized in many parts of the feudal Europe, it is historically more accurate to conceive the notion of self-protection as the "aristocratic self-help" (Axtmann, 1992: 41). This conception acknowledges the constitutive presence of coercion as a central strategy of political accumulation managing the relations among ruling classes and between landlords and peasants.

Describing the pre-capitalist societies as "unpoliced societies", Allan Silver provides more explicit explanation of the class character of the pre-capitalist forms of policing as in the following:

> In unpoliced society, police functions were often carried out – if at all – by citizens rotating in local offices (sheriffs, constables, magistrates) or acting as members of militia, posses, Yeomanry corps, or watch and ward committees. Not only was this system inefficient but it also directly exposed the propertied classes to attack. Agrarian men of property were frequently willing to undertake these tasks. Thus the Yeomanry, a cavalry force whose characteristic tactic was the sabre charge, was largely composed of small landowners who were especially zealous in police duty against mobs and riots and especially disliked by working people. For these reasons, the Yeomanry were particularly popular among the landowning classes as a means of defense ... (1967: 9).

Feudal mode of production did not exist in a pure form irrespective of particular class constellations in different parts of Europe (E. M. Wood, 2008: 166). It is of great importance to analyze the particular social relations of lordship to make sense of the class relations existent in different forms across Western Europe. However, it is hard to give a full picture of Europe in this sense within the confines of this thesis. Therefore, it is more practical to make sense of the central characteristics of forms of feudal order in continental Europe and England, and then understand how the particular forms of *policing* arose on the basis of these peculiarities.

To begin with, the above mentioned general characteristics of feudalism, i.e. parcellization of political sovereignty, peasant possession of land, fusion of private appropriation with public authority, etc., were the central features of continental feudalism. In fact, France was "the central homeland of European feudalism", which experienced "universal fragmentation and localization of noble power" (Anderson, 1974a: 156). This was mainly grounded in the class relations between peasants and lords that were laid down up to the year 1000. The central characteristic of peasantry in France was that they enjoyed a great degree of autonomy or freedom in terms of the possession of land. The intra-class rivalry within nobility over the distribution of agrarian surplus prevented them from forming a coherent and organized domination over the peasantry. The result of this intra-ruling class antagonism was the "complete post-millennial fragmentation of political power" in France, which can be summed up in this literal formula that "the vassal of my vassal is not my vassal" (Teschke, 2003:107). Within this context, the surplus of agrarian labour was a main issue of contention both among the landlords and between the lords and the king; the latter was exercising only a symbolic superiority over the lords and vassals (*primus inter pares*). This enabled the peasants to develop strategic tactics for the exploitation of the relative weakness and disorganization of the nobility to uphold concessions through such ways as appealing to royal courts. For instance, when the noble pressures over agrarian surplus increased, "a combination of peasant revolts and the king's legal support" was the double-challenge for the landed classes to address (ibid: 108).

These particular social property relations gave rise to specific form of coercive practices between and within subordinate and dominant classes. Speaking within the context of continental European feudalism, it is in a way quite difficult to make a distinction between police and army on institutional and functional terms. The central lordly strategy of political accumulation was the investment in the means of violence, which functioned on the basis of two aims. On the one hand, within the context of parcellized sovereignty of the feudal order, the landlords organized armed groups and recruited mercenaries in their armed struggles with the other landlords surrounding them. Therefore, they organized distinct coercive apparatuses to guarantee the conditions of the reproduction of their own sovereignty with respect to other landlords. On the other hand, the same coercive apparatuses were utilized to guarantee the reproduction of the conditions of surplus extraction from the peasantry. Hence, the oligopolistic concentration of means of coercion in the hands of the nobility in continental Europe was much more overtly manifested than the one in England, as discussed below.

While the continental European cases represented politically fragmented polities of peasant proprietors, feudalism in England was exceptional in terms of its "unusually centralized authority" (E. M. Wood, 2008: 174). It developed on the basis of a strong class compromise among the landed classes in the country. In total contrast to continental fragmentation of land, feudalism in England was from the beginning based on the concentration of lands in far fewer hands and the high numbers of the propertyless mass (E. M. Wood, 2002: 133). Therefore, in the same years of parcellization of political sovereignties in France, for instance, England was able to forge a unified kingdom with its various administrative apparatuses like the system of justice.

On this basis arose a peculiar form of relationship between the central government and the local nobility, the terms of which were always arranged according to the class compromise of the latter. As E. M. Wood underlines, exercising considerable local autonomy, the nobility was to govern "not as feudal lords, but in effect as delegates of the royal state, and not in tension with

the central state but in tandem with the rise of a national Parliament as an assembly of the propertied classes ruling in partnership with the Crown" (2008: 174). The local administration in England therefore was based on the direct involvement of local landed classes through which the monarchy enjoyed a centralized system of administration with royal taxation, currency and justice effective throughout the country (Anderson, 1974a: 159).

Within this historical context, the feudal England developed some sorts of centralized administrative and policing institutions, which characterized the "old police" in the country. The old forms of policing included rural and urban constables, night watchmen, Justices of Peace and various forms of "private" police (Godfrey and Lawrence, 2005: 10-14). These old policing practices were of course based on not a strict public and private distinction since the rulership was constituted as a political practice of personalized domination under feudalism. They represented overtly a class tool of political administration whose members were drawn from the ranks of the political nation, which was defined on the basis of property (Corrigan and Sayer, 1985: 39).

What should be re-emphasized on the basis of all these discussions is that the historically determined feudal relations of property gave way to peculiar *policing* forms in different parts of Europe. However, the general and constitutive characteristic of all these forms was that to the extent that the *policing* practices reflected particular strategies of political accumulation employed by the ruling classes, they manifested an overt organization of coercion defined within the existing social relations of property. Furthermore, the forms of policing were not autonomous from the army, but existed in close connection with it on both functional and institutional grounds. Although this latter phenomenon was most explicitly experienced in continental Europe, it was a characteristic feature of feudal order in England as well.

3.3. THE MODERN BOURGEOIS STATE AND THE PUBLIC POLICE

Within the framework of the above developed discussion, it becomes quite clear that capitalism denoting a specific social property relation and the capitalist state corresponding to a peculiar politico-legal form of power refer to a quite different theoretical-historical problematique than the one presented so far. It is with the discussion below that a particular effort will be spent to make sense of the historically constituted specificity of the capitalist state power. On this basis of this discussion, it will become clearer that the "double-edged" nature or the "schizophrenic image" of the modern police arises from this particular form of power as materialized and institutionalized in the modern bourgeois state, ultimately formed in and through the contingent process of social struggles in the 19th century.

This discussion will be carried out again with reference to theoretical and historical frameworks with regard to the capitalist state and the modern police. While the initial theoretical framework will attempt to understand this peculiarity on a more abstract-simple level, the historical discussion will underline the social struggles and contradictions underlying this phenomenon. On this basis, then, the formation of the modern police will be subjected to a critical elaboration with specific references to the Western European examples. The final part of the discussion will concentrate on a constitutive tension in this entire process, i.e. the persistence of the *private* forms and practices of policing throughout the 19th and the early 20th centuries.

3.3.1. Theoretical Postulate: Historical Specificity of the Capitalist State Power

Capitalism denotes a historically constituted social relation between capital and labour, which enter into apparently free and equal relations for their survival. It

is not a personal choice nor a feudal bondage that makes labour, denied access to the means of production, sell his/her labour power to the capitalist. Contrary to the pre-capitalist modes of production, the exploitative relations under capitalism are "mediated" through "the impersonal imperatives of the market". Therefore, as E. M. Wood strongly establishes, the historically specific nature of capitalism is that the producers and appropriators alike are dependent on the market compulsions in order to reproduce themselves within the extended material reproduction of society (2003: 9). This historical specificity ultimately refers to the fundamental phenomenon of "differentiation of *class* power as something distinct from *state* power, a power of surplus extraction not directly grounded in the coercive apparatus of the state" (E. M. Wood, 1995: 33; emphasis in the original). In fact, such a separation poses a challenging question about the relationship between state-society/market and the class character of the state in capitalist societies. The theoretical discussions in different scholarly traditions on the state have provided quite problematic assumptions on this challenging question. The common theoretical fallacy, continuously reproduced in liberal-individualism, statist-institutionalism and some versions of Marxism, has been to conceive this distinction as an ontologically given phenomenon. That is, the state and society/market have been perceived as ontologically separate entities, having the capacity to reproduce themselves on their own, and being externally related to one another. For instance, as discussed in Chapter 2, the contemporary neo-Weberian discussions on the transformations of policing exemplify one of the dominant traditions in this regard, i.e. the institutionalism.

The present discussion tries to develop a counter argument against these dominant conceptions by arguing that there is no state (and society/market) *as such* to be defined with reference to its eternal-internal characteristics in abstraction from its historical and social constitution. In other words, the state is not an abstract category to be *conceptually derived* (Clarke, 1991b: 184), or deduced from an abstract-formal object (Poulantzas, 1978: 15). Otherwise, the institutional separation of the state from society/market would be treated as distinct "entity", "level" or "instance" being relatively autonomous from and

having "over-determined" relations with the other "instances", as the structural Marxists would have it (see Carnoy, 1984; van der Berg, 1988). As *late* Nicos Poulantzas argued, the abstract constitution of the instances ultimately means that the historically specific form of the separation between the political and the economic is treated as real, and externally related to one another (1978: 15, 16). In the words of Marx himself, such theoretical outlooks take "… this superficial relation, this essential formality, this deceptive appearance of capitalist relations *as its true essence* … [and] thereby gloss over the essential nature of the relationship" (Cited in Mooers, 1991: 22). This approach of "relations of exteriority" would even come to a point of justifying the apparent separation as normal and legitimate (Poulantzas, 1978: 15-17). Furthermore, when formally or abstractly identified without any consideration of class struggle, the state becomes defined as self-constituted and separated agency whose function is to *resolve* the class contradictions. However, the contradictory nature of labour-capital relations cannot be resolved by the state, but can only be temporarily suspended. In fact, one can say that the historical development of the forms of the capitalist state ("night-watchman-state" of the 19th century, social-welfare state of the post-1945 era, Schumpeterian workfare state of the neoliberal era) are to be understood as the historically specific modes of state's existence in this very contradiction.

In order to adequately make sense of the contradictory appearance of state's class character on the one hand and its institutional separation from direct class interests on the other, what is needed is the analysis of the class and the state at different levels of abstraction. This task, however, is a matter not of "empirical abstraction" but of "substantial abstraction" which would enable one to trace out "the inner connection" between the social phenomena, with a quest to establish "the inner nature" of their relation, to use Marx's words (Bonefeld 1992: 99). With regard to class, the apparently natural and formally constituted free and equal relationship between labour and capital is based on a fundamental contradiction characteristic of capitalism. It is, to simply put, the exploitation of social labour under private authority. That is, the contradiction between the social nature of labour and the private nature of surplus extraction

lies at the heart of the contradictions peculiar to capitalism. Through this contradiction, capital "apparently" reproduces not only itself, but also labour; or labour not only exists "in capital", enabling the production of surplus in the value form, but also "against capital". This latter point underlines that the necessity of the social reproduction of labour exists at fundamental odds with the capital's drive for maximization of profit. In sum, labour being both the source of and the impediment before capital accumulation lies at the very basis of this contradiction (Bonefeld, 1992: 101,102; Clarke 1991b: 192). Thinking about the reproduction of capital at a certain level of abstraction, Clarke suggests that capital does not need the state to reproduce itself as long as labour is "assumed" to willingly submit itself to the requirements of capital accumulation. It is then the "logical" presupposition that class can be derived at the level of abstraction because of the aforementioned contradiction though no historical example exists proving the total subordination of labour to exploitative relations. However, the state cannot be derived at the same level of abstraction, but should be historically analyzed. This is because that the class character of the state and its institutional separation from direct class interests cannot be understood at the same level of abstraction. Otherwise, it would be an irresolvable problem due to the conflation of the levels of abstraction (Clarke, 1991a; 1991b). Therefore, the problem here is not resolving the class character of the state and its apparent institutional separation from capital at the same time. To the contrary, it is a problem of making sense of "the form of class rule appearing in the fetishised form of neutral institutional complex of organization, just as the rule of capital in production appears in the fetishised form of technical coordinating apparatus" (Clarke, 1991a: 55). All in all, the state is not a question of analytical derivation, but of an historical analysis that should be understood only in and through struggle. It is not a logical *necessity*, but an historical *reality* and *necessity* that the state in general and the capitalist state in particular has been constituted in and through class struggle.

If the separation of the economic and the political under capitalism is understood in this framework, it would become clear that this separation "... *is nothing other than the capitalist form of the presence of the political in the*

constitution and reproduction of the relations of production" (Poulantzas, 1978: 19; emphasis in the original). In fact, the rest of the chapter will develop such a discussion on the historical formation of the modern bourgeois state with particular reference to the public police. As the following discussion will try to reveal, it is not only a "logical" but also an "historical" presupposition underlining the primacy of class antagonism over the economic (market), political (state), and cultural (ideology) forms through whose mediation such struggle is experienced and carried out (Bonefeld, 1992: 107). This does not mean that class antagonisms can be found *out there* without these specific forms it historically takes. It is just to underline the primacy of the class struggle at a certain level of abstraction over the specific forms it takes throughout historical process (Clarke, 1991a: 38).

Therefore, in a discussion on state-class relation, the substantive analysis would reveal the inner connections in question while the historical analysis would point out the historically specific form this inner connection has taken in capitalism. Conceived as such, the extra-economic coercion in capitalism, materialized in the organized institutional structures of the capitalist state, operates not directly in the relations between capital and labour, but indirectly by sustaining the conditions of the system of economic compulsions, the system of property (and propertylessness) and the operation of markets. As E. M. Wood suggests, even in the cases of the application of direct force, like the arrest of strikers by the police, this is made not with an overt class bias but under the obscuration of the neutrality of the coercive power. Therefore, the police is not the coercive arm of capital in a direct or unmediated way, but represents the state which presents and reproduces itself with reference to its "autonomy" and "neutrality" (E. M. Wood, 1995: 45; 2003: 4-5). In total contrast to the pre-capitalist modes of production, capitalists do not need direct control over the military or political power to exploit workers because of the historically constituted fact that the workers themselves are propertyless and subjected to the wage relation for their own reproduction.

It is on this basis that the political sphere apparently exists as if it was separated from the economic sphere, which in turn constitutes the capitalist state as a neutral body over any other interests in the society. This separation, however, is not merely "illusory" representing the distorted image of the social reality. In other words, it cannot be simply read off that the political is the epiphenomenal attribute to the material base, as long been argued. To the contrary, such a separation is "both real and illusory, as having a material foundation and an ideological significance, and so not an inherent structural feature of capitalism, but both the object and the result of the class struggle" (Clarke, 1991a: 44; 1991b: 194). That is, rather than being the objective feature imposed by the logic of capital, the neutral organization of the political refers to the institutional framework imposed on the capitalist relations of production only through permanent class struggle, constantly redefined, transformed and reproduced in and through that struggle (ibid: 46). This leads to the fundamental argument that what is essential to the state is its class character; its autonomy and impartiality is the surface form of appearance of its role in the class struggles, continuously redefined throughout the historical process (Clarke, 1991b: 186). The analysis of these historical struggles would reveal the fact that the abstractly constituted field of the political (and the ideological) has always been present, albeit in different forms, in the active constitution and contradictory reproduction of the social relations of production (Poulantzas, 1978: 17). Therefore, although the political-coercive moment appears as institutionally distinct from the moment of *purely economic* surplus extraction, the exercise of coercion is intrinsic into the political management of the capitalist modernity (see Neocleous, 1996; 2000; 2006a; 2006b; 2007a; 2007b).

3.3.2. Historical Portrayal: The Formation of the Public Police

The modern notion of the police originated in French-Burgundian word, *policie*, in the 15th century and it was used across the continental Europe with the adoption of a range of words such as *Policei*, *Pollicei, Policey*, *Pollicey*,

Pollizey, *Pollizei, Politzey*, *Pollucey*, and *Pullucey*. These different usages of the word did not change the original meaning of the concept, which cannot be limited to mere *technical* processes of crime prevention and preservation of order (Axtmann, 1992: 39; Neocleous, 2000: 1). It was rather that the notion was understood within a more general context of "the general regulation or government, the morals or economy of a city or country" (Johnston, 1992: 4).

This extended conceptualization of the police was born into a world of major transformations in terms of social property relations, organization of statehood and the international state system in the post-16th century period. In other words, the rise of capitalist relations of production coupled with the rise of the modern state were the two constitutive dynamics that established the objective grounds for an extended conceptualization and practice of policing in Europe. Furthermore, this process was coupled with the rise and consolidation of the multiple state system, within which "war as international relations" (Tilly, 1985: 184-186) ultimately brought about a functional and institutional differentiation between the police and the army in a rather gradual, contested and contradictory process of social struggles (see Johansen, 2001). In a time period of long and violent disintegration of feudal social relations, the main problematic of the political authority, institutionally materialized in the absolutist monarchies, was constituted as "the creation and formation of a *new* order based on reason and rationality" (Axtmann, 1992: 44). It was in this historical moment that "a general problematic of government" concerned with the questions of "how to be governed, by whom, to what extent, to what ends, and by what methods", emerged as a central problem to be addressed and resolved (Foucault, 2007: 89). Therefore, especially from the mid-17th century onwards, the notion of the police was conceptualized as a central means to establish a new social order through the promotion of secular and material welfare of the state and its population. It was during this period that the modern police in its pre-19th century form emerged as a dynamic product of and constitutive element in the processes of the formation of the absolutist states in Europe (see Axtmann, 1992; Baker, 1978; Bowden, 1978; Chapman, 2007; Cunha, 2010; Levy, 1966; McMullan, 1998; Miller, 1986; Neocleous, 2000;

Raeff, 1975; Spicer, 1998). Even though the revolutionary uprisings and successive periods of empires, monarchies and republics were experienced over the centuries, the institutional structures of the police, which were founded during the time of absolutism, were only much more strengthened, if not remained intact (Miller, 1986: 341).

Coming to the 19th century, however, a particular bourgeois conception of the police established its hegemony by promoting the discourse that the police was the coercive public arm in the service of the rule of law. Still, this seemingly neutral conception suffered from material contradictions of its social constitution, which can best be observed in the 19th century experiences of police formation processes. The following discussion is concerned with the social and political dynamics and contradictions, which paved the way to the establishment of the public police with a bourgeois character in the 19th century. It will firstly discuss the rise of bourgeois conception of the police, and then the 19th century experiences with regard to the formation of the public police will be analyzed. Before such an examination, it is important to underline the following points with regard to the contradictory class character of the formation of the public police.

The 19th century social and political transformations were culminative in the sense that they manifested the ultimate formation of the police with reference to the bourgeois democratic conception of state and society relationship. It was a constitutive part of the more general process of fabrication of a particular social order based on the wage form as the sole means of subsistence. This particular *order* was politically fabricated and administered by means of the constitutive presence of the coercive power, which was ultimately formed in a centralized and institutionalized manner in and through class struggles (Richards, 1980). However, by saying this, it should be particularly underlined that this process included great controversies and contradictions both between and within the social classes, and thus it cannot be subsumed under a mere class project of bourgeoisie. This is because bourgeoisie was not acting in a coherent and organized way as a class to constitute a coercive lever of class

domination. It was rather that the bourgeoisie in the 19th century was learning, exploring, trying, making mistakes and re-trying in the process of ongoing struggles over the organization of politico-legal power in society (Çulhaoğlu, 2003: 102).

Conceived as such, the process of public police formation explicitly manifested the fundamental contradiction between the abstractly constituted bourgeois democratic ideals and material contradictions of capitalism. In this sense, democracy cannot be viewed as a direct outcome of the rise of the capitalist relations of production. To the contrary, the bourgeois democratic state form and its institutional structures were the dynamic products of long and violent class struggles (see Therborn, 1983; 1989). Therefore, the constitution of a particular order in accordance with the bourgeois democratic ideals did include violent forms of fabrication of the very same order. This process has also included the incorporation of the class antagonisms and contradictions into the institutional framework of the capitalist state. Therefore, while the democracy progressed beyond the visions of bourgeoisie, the incorporation of class antagonisms into the state sphere has resulted in a "security belt" for the bourgeoisie (Çulhaoğlu, 2003: 97). In fact, this is a particular discussion concerned with the question of whether the bourgeoisie democracy is the best possible shell for class domination in capitalism (see Jessop, 1983).

On this basis, it is important to understand the formation of the modern bourgeois state in a impersonal and impartial form as a contested phenomenon contingently defined in and through the struggles of social classes and contradictions of social practices, which were ultimately materialized and crystallized in the 19th century. In this process, the working class question was dealt with by means of not only violent interventions into the organized struggles and everyday practices of subordinate classes. It also included organization of consent and incorporation of working class into the emerging bourgeois democratic institutions of the state. To the extent that the formation of the modern police meant the penetration of state power into the depths of the society, it was ultimately defined within the context of the "bargaining"

strategies among different social classes as well as the state elites and the local populations. In and through such processes, the abstractly constituted bourgeois democratic ideals such as the police being the impartial agent of the rule of law encountered with the material contradictions of their social constitution. Thence, the impartial and impersonal obscuration of the modern bourgeois state arose as the contradictory form of crystallization of these struggles. Within this context, as will be discussed in the following parts, the public police was constituted as the central form of "political administration" (Neocleous, 1996: 117-165; 2000; 92-118), "direct rule" (Tilly, 1990: 103-117), or "infrastructural power" (Mann, 1988b: 5-11) of the state. To the extent that the police meant ever-increasing penetration of the state into the daily lives of the subordinate classes, it was exposed to the popular resentment and hostility (see Ergut, 2004; Kidambi, 2004; Williams, 2008). That is why, as discussed in the introductory part of the chapter, the public police enjoys a "precarious position", "schizophrenic image" or "double-aged nature" in the modern capitalist societies.

3.3.2.1. The Rise of the Bourgeois Conception of the Police

The extended conceptualization and practice of policing experienced a kind of transformation especially beginning from the second half of the 18th century. The critique of the classical political economy against the mercantilist policies at the time was significant in terms of the gradual constitution of a bourgeois worldview, which conceived the state-market relations at fundamental odds with the age-old policies of the absolutist states. Conceiving the market as a naturally functioning sphere of exchange among autonomous individuals, the classical political economy argued against the state interference into the market, which would mean an externally imposed restriction to the market relations. On this basis, a bourgeois conception of police prevailed over the old one by proposing a much more limited role for the police, which should be the institutional organization of the state acting within the limits of the rule of law for the prevention of crime and maintenance of public order.

The transition from an extended conception of the police to a much more narrower one can be observed in the writings of Adam Smith (Cunha, 2010; Hasbach, 1897; Neocleous, 2000: 22-26). The traces of the extended conception of the police can be found in his early writings, especially in *Lectures on Jurisprudence*. Conceiving a close relationship among internal order, justice and the police, Smith argued that all of them had a direct impact on the wealth and power of nations. He explained this relationship as in the following:

> The first and chief design of every system of government is to maintain justice; to prevent the members of a society from encroaching on one another's property, or seizing what is not their own. The design here is to give each one the secure and peaceable possession of his own property. {The end proposed by justice is the maintaining men in what are called their perfect rights.} When this end, which we may call the internal peace, or peace within doors, is secured, the government will next be desirous of promoting the opulence of the state. This produces what we call police. *Whatever regulations are made with respect to the trade, commerce, agriculture, manufactures of the country are considered as belonging to the police* (Cited in Cunha, 2010: 4; emphasis added).

However, in *Wealth of Nations* and *Theory of Moral Sentiments*, Smith evolved towards a much more explicit perspective of classical political economy on the basis of the principle of *laissez faire, laissez passer*. As he wrote in the *Wealth of Nations*: "There is no fear if things be left to their *free course* that any nation will want money sufficient for the circulation of their commodities". Therefore, for Smith, "[market] is by far the best police to leave things to their *natural course*" (Cited in Hasbach, 1897: 688).

This transformation reflected the consolidation of the discipline of the capital in organizing social relations. In a way, it was indicative of the replacement of the "the disciplinary logic of police" by "the disciplinary logic of the market" (Neocleous, 2000: 41). It is therefore that from the late 18th century onwards, the welfare and security functions were separated and delegated into different institutional structures of the state (Axtmann, 1992: 58). Rather than performing a wide range of communal and administrative practices, the police

was gradually conceptualized as the prime institutional practice directed towards the internal *enemies* of the state. It was in a way a transformation from policing as the *administration* of the communal affairs to policing as a *preventive force* allegedly empowered and constrained by the rule of law and operating against the internal enemies (ibid: 39).

This transformation was one of the most important practical outcome of the critique of liberalism against mercantilism and the consolidation of bourgeois power in the social order of inequality. The liberal critique of mercantilism came up with the idea that "the scope of state activity was limited to guaranteeing a legal framework which would allow each individual to participate in society on the basis of individual property/properties" (Axtmann, 1992: 60). Therefore, the extensive involvement of the police into the communal affairs was denounced in favour of a more restricted role of the police which would function within the limits of the rule of law.

This limited conception of the police was in a way a class project which reconfigured the politics of social order in a substantial manner. On this point, the long assertion of Neocleous below is worth reproducing at length:

> It is within liberalism's ideological recoding of the politics of order, the nature of property and the question of the state that its rethinking of the police concept must be placed. Historically, the trick was to make policing consistent with the rule of law and a liberal polity. Having painted an ideological gloss on the tyranny of capital and having ignored the gradual assumption of increasing powers of domination of capital over labour, liberalism transformed the police idea by restricting it to 'law and order' in the narrowest sense – the prevention of crime and disorder via the enforcement of law by a professional body of public officials forming a single institution with a clearly defined and limited role and subject to the rule of law. This vision of police became the dominant one in political discourse and in the self-understanding of police ... (2000: 41-42).

There are a number of significant points to be underlined here in order to understand the consolidation of the bourgeois conception of the police from the late 18th century onwards. First of all, the question of "law and order" is abstracted from its political content and reconstituted as a "technical" problem

to be managed by the police. That is, grounded in this bourgeois conception of law and order, the conventional outlook and the state discourse constantly propose that what the police deals with is the technical problems of crime detection and prevention. This non-political presentation of the police work, for Reiner, provides an important basis for the justification of its practices and neutrality. Therefore, the very separation of "technical" and "political" provides one of the significant mediations through which such a perception is reproduced: police is a non-partisan and non-political institution impartially enforcing the law. However, the very existence of the police cannot be regarded as "neutral" because the very question of the social order is defined in and through political and social struggles of classes in society. In short, as Skolnick maintains, "the civil police is a social organization created and sustained by political processes to enforce conceptions of public order" (Cited in Reiner, 2000: 8). The discussion here relates to the more general differentiation of the institutional forms of the police between "ordinary policing" and "political policing" (W. R. Miller, 1986: 340; see also Bowden 1978). While the former is concerned with the daily manifestation of breaches of rule of law and public order, which are perceived and presented as *non-political* and thereby managed through *low policing*. The latter, however, is fundamentally concerned with the anti-systemic movements, social groups or events that pose a direct challenge, whether it be real or imaginary, to the established order. The rise of bourgeois conception of the police arose on the basis of this very seperation as well. However, it has always been quite difficult to make a clear distinction between the two because, as Austin Turk argues, "all policing is political" in the specific sense that the *raison d'être* and function of different forms of policing are "... never really neutral … [but] designed for use on behalf of the politics of social order and continuity" (Cited in W. R. Miller, 1986: 340).

On the other hand, it is important to underline a constitutive tension within the universal-neutral constitution of rule of law and incorporation of the police into this framework. This tension reveals the contradictory basis of the rule of law as a class project. Especially in orthodox Marxist discussions, it has been the

generally accepted assumption that the law in the 18th century was nothing more than a mere class instrument in the hands of the bourgeoisie. Likewise, it is no longer a disputed issue among social historians that the universally presented rule of law reflected an explicit "class content" in the 18th and even 19th centuries (Hall and Scraton, 1981: 491). For instance, E. P. Thompson successfully demonstrated in his several studies that in the 18th century England the law was "colonized" by the upper classes – the landed gentry and the aristocracy, and it did play constitutive roles in the fabrication of bourgeois social order (see Hall and Scraton, 1981). However, the abstractly constituted universality of bourgeois law was not exempt from the contradictions of its social constitution. This point is closely related to the specific argument that the universal-impartial presentation of the rule of law did provide important strategic means for the lower classes to exploit the existing opportunities and even to force it into barriers of its own reproduction. In this regard, alongside the other social historians like John Brewer and John Styles, Thompson powerfully underlines that "the practice of 'putting oneself on the law' was not limited to the powerful classes only, but embraced all sections of society, though not equally" (Cited in ibid: 492). Speaking within the context of the 17th and the 18th centuries, Brewer and Styles argues that the lower classes did develop strategic tactics and strategies to exploit the universally presented legal framework. They deepen the discussion at hand as in the following:

> Even though the plebeian and the underdog were invariably disadvantaged when they clashed with those in authority or had recourse to the courts, they knew that they were never merely the passive victims of a process that they were powerless to affect. Seventeenth-century villagers, eighteenth-century debtors, the colliers of Kingswood and the coiners of Halifax, as well as the metropolitan radicals supporting Wilkes, *were all prepared to make concerted efforts to exploit, alter or evade the law and to bargain with, bully and bamboozle those in authority*. The ideology of the rule of law was invoked to justify the prosecution and policing of officials and the public presentation of grievances; archaic procedures were used to further radical ends; one authority was played off against another; actions were brought to test the legality of particular laws, and extra-legal action was legitimized by appeals to the principles of justice which the law supposed to embody. *The*

> *room for manoeuvre may have been limited, but it was exploited to the full* (Brewer and Styles, 1981: 35; emphasis in the original).

Conceived with reference to these arguments, the bourgeois conception of the rule of law cannot be regarded as a mere class instrument, but should be evaluated as an essentially contested terrain over which the struggles of social classes took place. This particular argument puts great emphasis on the contradictions of material social relations and reconstitutes the notion of rule of law as a fundamental matter of class contestation. As Hall and Scraton puts forward then:

> The 'rule of law' is a contradictory social relation, an arena of struggle. It is something which the poor and the oppressed have struggled *against*, struggled *within*, and sometimes struggled *for*" (1981: 492; emphasis in the original).

This peculiar conception of the rule of law as a social relation or a form of class struggle does provide important means to make sense of the struggles of lower classes in the process of the establishment of the public police in the 19th century. The materialization of such struggles in the institutional structures of the state contributed to the persuasive incorporation of the lower classes into the emergent system of the public police.

In short, the rise of bourgeois conception of the police undermined the extensive conceptualization and practice of policing and replaced them with a narrowly constituted one: the institutional and impartial mechanism of prevention of threats to order. However, the hegemonic conception of the police, which was defined within a specific class content, was the intention but not the mere product of rising bourgeoisie, but ultimately defined within the context of the social struggles and contradictions in the 19th century.

3.3.2.2. Political Constitution of Bourgeois Social Order

The formation of the modern police was part of a broader process of the political fabrication of the bourgeois social order. This process greatly included

coercive construction of social relations in a violent manner. Therefore, the 19th century police formation project was central:

> ... to the consolidation of the social power of capital and the wage form: as order became increasingly based on the bourgeois mode of production, so the police mandate was to fabricate an order of wage labour and administer the class of poverty" (Neocleous, 2000: xii).

The formation of market discipline as the organizing social force over the entire social relations was accompanied with the intensification of the political oppression. E. P. Thompson provides an important summary in this regard:

> The people were subjected simultaneously to an intensification of two intolerable forms of relationship: those of economic exploitation and of political oppression. Relations between employer and laborer were becoming both harsher and less personal; and while it is true that this increased the potential freedom of the worker, since the hired farm servant or the journeyman in domestic industry was (in Toynbee's words) 'halted half-way between position of serf and the position of the citizen,' this 'freedom' meant that he felt his *un*freedom more. But at each point where he sought to resist exploitation, he was met by forces of employer or State, and commonly of both (2001: 17).

A central tenet of the modern police project in the 19th century was the political constitution of categorical distinctions between *deserving* and *undeserving poor*, *working class* and *dangerous classes*, *poverty* and *vagrancy*, etc. These distinctions were commonly utilized throughout Europe as a central part of the governmental project to manage the growing problem of poverty without any fundamental alteration of the social structure itself (Göral, 2007: 31), and with a central concern of the criminalization of organized struggle and customary practices of labouring classes (Williams, 2003). From the late 18th century onwards, a series of repressive measures were introduced to cope with the increasingly threatening problems of "dangerous classes" and the "working class". This very distinction between the two was politically engineered, and corresponded to the "technical" distinction between political policing and civil or everyday policing (see Bowden, 1978; Miller, 1986). On the one hand, the working class question was dealt with through overt forms of repression and

violence, which included, among the others, criminalization of workers' organization through parliamentary acts, empowerment of legal courts to convict summarily, prosecution of workers for breaching the contract in the case of strikes, violent repression of popular gatherings, and subsequent restrictions on rights of public assembly and demonstrations (Corrigan and Sayer, 1985: 115; Munger, 1981). Such practices of overt coercion against the rising "working class question" were accompanied by the political, administrative and legal measures concerned with yet another increasingly tense question, which is presented under diverse placards such as vagrancy, pauperism, idleness, etc. The discontent among the upper classes with these problems had much longer historical background, yet the centralized and consistent measures to deal with them emerged only in the 19th century. For instance, between 1700 and 1824, 28 statutes concerning the question of vagrancy were passed in England, speeding up the process of the criminalization of almost all the activities of the poor. In fact, the notion of vagrancy in this period was "a catch-all category for social undesirables, facilitating a policing of the poor" (Rogers, 1991: 131).

Although there were clear connections established by the upper classes and state officials between working class and criminality, the discourse of "dangerous classes" was mostly reflecting the concerns for the disorder caused by the unemployed deserving poor who reject the discipline of market (Silver, 1967: 4). The quotation below from an advocate of police reform in London clearly demonstrates how the mass of unemployed people were perceived as a (potential) threat to the order of capital:

> The most superficial observer of the external and visible appearance of this town, must soon be convinced, that there is a large mass of unproductive population living upon it, without occupation or ostensible means of subsitance; and it is notorious that hundreds and thousands go forth from day to day trusting alone to charity or rapine; and differing little from the barbarous hordes which traverse an uncivilized land … The principle of [their] action is the same; their life is predatory; it is equally a war against society, and the object is like to gratify desire by stratagem or force (Cited in Silver, 1967: 4).

The police reformers of the time made extensive use of these arguments to justify the formation of a centralized and bureaucratized police force. One of the most important figures promoting the establishment of a preventive police force was Patrick Colquhoun in the late 18th and the early 19th centuries. Arguing against the old forms of policing, Colquhoun maintained that what was required was "a systematic superintending policy calculated to check and prevent the growth and progress of vicious habits and other irregularities incident to civil society" (Cited in Rogers, 1991: 145). He perceived the materially grounded social behaviours of the lower classes as something to be moralized and normalized in order to curb "the unruly passions peculiar to vulgar life'' (Cited in Dodsworth, 2008: 597).

The old systems of policing were denounced as insufficient and disorganized to establish an efficient system of administering the poor. This discourse was greatly embraced by the police reformers and some factions of the ruling class to justify their replacement with a more centralized police organization. For instance, it was argued that the traditional communal loyalty of the old constabulary system prevented a successful initiation of the statues necessary for the rapidly changing circumstances. Foremost example of this can be observed in the implementation of the enclosure acts in late 18th and early 19th centuries in England. From 1760 to 1845, the total enclosure activity, largely carried out through parliamentary acts, involved over 6.000.000 acres and over 4.000 acts (Corrigan, 1980: 37). The historical process of enclosure corresponded to the forcible transformation of the property relations in favour of the upper classes, and was accompanied with a politically organized popular resistance on the part of the subordinate ones. The violent upheavals of the anti-enclosure groups constituted a major challenge for the magistrates, which cannot be resolved by resorting to the traditional means such as parish constables or special constables. The central reason for the ineffectiveness of the old forms of policing was the existence of the community loyalty, which made the constables shield and encourage the rioters (Eastwood, 1996: 40).

Closely linked to this point were the gradually rising rates of participation of the working class radicals in the constabulary system. The control of the constabulary by the working class caused an immense dissatisfaction among the upper classes as well as the police reformers of the time. Therefore, the political attempts for the formation of a centralized police forces intensified in England especially in the 1820s. For instance, in 1826 the Oldham Police Act was enacted by establishing the grounds for excluding the working class influence on the constabulary and constituting state's direct control over it. In 1829, the Metropolitan Police was established (Foster, 1974: 56).

However, as already pointed out on various occasions, it was not an uncontested process exempt from the contradictions of material social relations. The process of police formation was encountered with immense resistance from a variety of classes. The main source of hostility was the working class, however, the some fractions of landed classes and industrial bourgeoisie did showed considerable resistance to the centralized police force as well (Paley and Reynolds, 2009). However, the resistance from the upper classes:

> ... was eventually overcome only by the pressure of urban middle-class propertied interests – seeking a police force to protect their property and persons against what seemed to be an inexorably growing tide of urban crime, and against the threat of revolution by the growing urban masses (Philips, 1983: 63).

In fact, the bourgeoisie in the 19th century England generally supported the process of bureaucratization of the police functions though not in a uniform manner. The demands for bureaucratization meant that the bourgeoisie did not want to involve directly in the processes of policing as this reflected the overt class character of the old policing forms such as justices of peace and yeomanry. In this regard, it seems quite important to resort to an example from Allan Silver who cites a testimony of an industrial bourgeoisie before the Royal Commission of 1839 (1967). Thomas Ashton, who was "the owner of considerable property in manufactures, and the employer of about 1500

persons", raises concerns about the danger posed by the old policing forms as in the following:

> On such urgent occasions, I think it extremely desirable that a stipendiary magistrate should be sent into the district and entrusted with the administration of the law. A great majority of the more serious disturbances originate in disputes between master and servant. The local magistracy is chiefly composed of the resident landowners and manufacturers, and the irritation of the workmen against their employers is greatly increased when they find the person, with whom the disputes have risen openly supported by, and giving directions to, the military, and subsequently punishing them for breaches of the peace, which would never have been committed unless such disputes had occurred. Ought the employer to be placed in such a situation? It is likely that animosities would be allayed or peace maintained by it? What safety has the proprietor of machinery? (Cited in Silver, 1967: 10, 11).

The concern of bourgeoisie here cannot be reduced to a mere question of safety of life and property, but included the fact that the bourgeoisie was concerned with the exacerbation of class violence through the old policing forms. This particular point is closely interlinked with the fabrication of popular consent over the *public* role of the police. Before making sense of this issue, it is important to understand the resistance practices coming from the subordinate classes in the 19th century.

In this regard, Robert D. Storch provides significant insights to understand this phenomenon in its entirety. Especially in the 1830s and 1840s, a series of riots took place against the formation of a centralized coercive apparatus tasked with the government of urban poor. Storch reports that the objectives of the anti-police rioters can be distinguished into two. In those places where police were a novel phenomenon, the central objective was "to permanently drive the police out of the community by force". Most dramatic examples of such riots occurred in Hull, Manchester and Leeds in 1840s. The disorder caused by the riots was ultimately resolved with the direct intervention of the army into the serious situations (Storch, 1981: 95, 96). The second type of police riots had much more limited aims other than a total rejection of the formation of police. With the fears of external intervention, they aimed "to popular recreations or

customs, prevent interference in strikes, protect wanted individuals, protest against police interference in political activities, protest against instances of police brutality, rescue arrested persons, etc" (ibid: 95). Here, while the issue at stake was the police brutality, interference with popular leisure patterns, interference in strikes or with political meetings in the second types of anti-police riots. However, the very presence of the police itself was the main target point for the riots occurred especially till 1845. On such historical evidence, it can be said that the process of the formation of modern police was quite contested one. At some places like Colne, the introduction of a centralized police institution was perceived in a so reactive manner that the events cannot be considered as riots but "a bitter war of attrition against the new police" (ibid: 100).

3.3.2.3. Fabrication of Consent over the Public Police

The formation of the modern police with a bourgeois character was determined within the context of social struggles over the establishment of bourgeois forms of political domination. However, it was not exempt from the contradictions of its social constitution. In this regard, it is important to underline the fact that this process included not only coercive intervention into organized struggles and everyday practices of subordinate classes, but also persuasive incorporation of them through material and discursive practices. In and through such processes was the public police established with an alleged impartiality over any interests in society.

It seems plausible to begin this discussion with reference to an important point raised by Corrigan and Sayer. In their significant works on the historical formation of the capitalist state in England, they argue that the gradual and contested formation of the capitalist state in an impersonal and impartial form denoted "the Revolution in Government" (Corrigan, 1980: 27), which refers to:

> ... a concerted attempt to disentangle 'the State' from interests, from clientage, from its previously more overt class and

> patriarchal register … 'The State' comes to represent a neutral, natural, obvious set of institutionalized routine practices which successfully claim the legitimate monopoly of national means of administration (Corrigan and Sayer, 1985: 123).

This general assertion restates the already raised argument that the bourgeois organization of politico-legal power historically constituted the state in an impersonal and impartial manner. The modern police provides an important institutional materialization to this form of power. Therefore, it is important to make sense of the historically determined mediations through which the modern bourgeois state and thereby the modern police arose on the basis of this discursively and materially grounded impartiality and impersonality. What is at stake here is the gradual fabrication of popular consent over the very existence enjoyed and the practices performed by the police.

This important discussion should be located within a larger framework which contrasts the old and new forms of law enforcement and legal process. As discussed so far, the *old* practices of policing were organized with an overt class bias as a result of the oligopolistic concentration of the means of violence in the hands of the property holding classes. Especially till the 19th century, it was a common practice for the landed classes to directly involve in the processes and practices of policing. However, the overt class character of the organization and practice of policing was radically transformed in the 19th century. For instance, the lower classes were begun to be incorporated into the organizational framework of the public police. As Silver underlines, this mere fact of empirical transformation of the social basis of the police did provide an important mediation through which "moral consensus" on the police as "an instrument of legitimate coercion" was established in the second half of the 19th century (1967: 13). In this regard, he cites the below statement from a news article published in London in 1870 to underline the constitutive effects of impersonal organization of the police with reference to the fabrication of consent over it. The article named as "The Police of London" states that:

> The baton may be a very ineffective weapon of offence, but it is backed by the combined power of the Crown, the Government and the Constituencies. Armed with it alone, the constable will

> usually be found ready, in obedience to orders, to face any mob, or brave danger. The mob quails before the simple baton of the police officer, and flies before it, well knowing the moral as well as physical force of the Nation whose will, as embodied in law, it represents. *And take any man from that mob, place a baton in his hand and a blue coat on his back, put him forward as the representative of the law, he too will be found equally ready to face the mob from which he was taken, and exhibit the same steadfastness and courage in defence of constituted order* (Cited in Silver, 1967: 14; emphasis added).

This quotation points out the fact that what can be called as occupational incorporation of the lower classes was functional in terms of building up an impersonal police organization, and thereby fabricating a kind of a popular consensus over the very existence and organization of the police institution. This refers to a fundamental transformation from *voluntaristic and non-bureaucratic* forms of policing, which was defined with an over class bias, to impersonal and impartial organization of the public police.

The second aspect of the fabrication of consent is concerned with the universal-legal framework of the bourgeois institutional structures, which meant for the subordinate classes to counter these age-old practices of coercion employed by the upper classes. It is generally maintained by the social historians that in the second half of the 19th century, the willingness and belief of the lower classes to apply to the formal legal process instead of to the traditional informal practices to seek justice were established (Davis, 1984: 330). Speaking especially for the crimes against the property of the lower classes, Philips puts forward that the working class gradually abandoned the informal mechanisms and embraced the idea of "invoking the law to prosecute thefts of private property", which shows the acceptance of the working class of the law's "basic legitimacy as applied to themselves and their affairs" (Cited in ibid: 330).

It was the material interests of the lower classes which made them to exploit the bourgeois democratic principles as opposed to the overt class bias of the old forms of policing. Within this framework, the question of why the lower classes struggled against the private practices of policing becomes much more "reasonable" because, in Ergut's words:

> Various historical cases have demonstrated that the demand for prevention of crimes have been raised principally by the middle class and even by the working class. This is quite reasonable because these are the classes who have been mostly affected by crimes throughout the history. It cannot be expected that the landed classes and the marginalized groups support the state's efforts for the prevention of crimes; this is because *the former have always had their own "police" forces*, and the latter have almost nothing to lose. What remain are the middle class and the working class (2009: 47; emphasis added).

Dietrich Oberwitiler too underlines this point by relying on Peter King, who produced out important historical studies on the issue in question, and states that "in most cases of property crime it was the middling and lower sort of people who were victims of property crimes; in fact, in many cases members of the lower classes assaulted or stole from their equals" (Cited in Oberwitiler, 1990: 5). Therefore, the discursively presented universal domain of bourgeois law and its materialization in the form of administrative and legal institutions did provide strategic terrain for the lower classes to exploit against the state practices as well as the *private* practices of policing defined within an overt class bias and employed by the upper classes. As King summarized, "… those victims from the lower classes 'made extensive use of the courts for their own purposes'" (Cited in ibid).

The important study by Jennifer Davis (1984) is illustrative as it centres on the question of how the working class made use of the police courts as an arena for the tactical or strategic exploitation of the existing legal framework to their advantage. For instance, until the 1850s, as argued earlier, there was a widespread hostility among the lower classes against the new police, which was perceived as yet another but more professional lever of class rule. However, especially in the second half of the 19th century, the working class made an extensive use of the legal courts to seek for prosecutions on just basis (Davis, 1984: 321). On the basis of the analysis of the police court newspapers, the author maintains that the most common requests for magisterial advice or intervention raised by the working class were concerned with the problems of the everyday life such as the disputes with family members, neighbours,

landlord, employers, tradesmen and with other official bureaucracies, the poor law guardians, the school boards and the police (ibid: 322).

As the last crucial point, the close relationship between the social policy and the police functions of the state provided another historically constituted mediation through which the persuasive incorporation of the lower classes into the bourgeois democratic institution of the police was enabled. As already underlined, the modern police project arose as a comprehensive project of fabricating a particular social order based on the wage relations as the only means of substance. Therefore, the redistributive involvement of the police in social welfare gradually "… become[s] the cutting-edge of the police campaign for active consent and public support" (Cohen, 1981: 128). Even though in the 19th century the social policy was separated from the security functions of the police, it nevertheless did continue to govern especially the lower classes through the provision of various public services. For instance, Leon Radzinowicz demonstrates that to the extent that the management of the vagrancy was made a central concern for the new police through the New Poor Law, it reconstituted the police as "assistant relieving officers" (1981: 66). This particular function of the police did play constitutive roles on the persuasive incorporation of the lower classes into the institutional existence and authority and powers of the new police. This also reflects a fundamental dilemma with regard to the modern police. To the extent that the public police penetrates into the depths of the society for managing the poor through repressive means, "they had also to pay the price of increased dependency on sources of legitimation in civil society" (Cohen, 1981: 129).[7]

With the above discussion, what becomes clear is that the formation of the modern police was a contested process within which various class interests were at stake. Established through such processes, the modern police arose on the basis of the public provision of security. The public nature of institutional

[7] The question of the legitimacy here is directly concerned with the rise of citizenship rights in and through the processes of of the formation of centralized state structures. In this regard, the public police was one of the central tenets of this process (see Ergut, 2003; 2004; 2009).

organization and operational powers of the modern police therefore constitutes the core basis of the legitimacy claims of the modern states, as Silberman underlines (Cited from Ergut, 2004: 32). However, this consensus was fragile and prone to crisis in times of increasing police violence especially against the subordinate classes. For instance, Cohen provides on the basis of a newspaper report that even in the 1920s the tradition of collective self-defence still existed (1981: 117; see also Godfrey, 2006). Such communal practices were reflective of working class struggle over the protection of the communal forms of legitimacy, which were defined as opposed to the one imposed by the state. Still, the important point here is that what was *successfully* accomplished from the late 19th century onwards was the level of state penetration into the society and institutionalization and fabrication of consent with reference to the principle of rule of law. The initial strong and violent objection to the police diminished rapidly in the second half of the 19th century and police became to be widely accepted in England (Silver, 1967: 7; see also Reiner, 2000) as well as in many continental European countries (see Emsley, 1986; 1999; 2007; Gillis, 1989).

3.3.2.4. Permanence of Private Forms of Policing: An Inherent Tension Revealed

The hitherto discussion has tried to make the point that the historical formation of the modern police was not a radical process sweeping the old forms of policing; nor was it a smooth development free from social struggles and contradictions. It was rather a gradual and contested, contradictory and contingent process determined by concrete class practices on the part of both subordinating and subordinate classes, which were ultimately materialized and condensed in the institutional structures of the modern bourgeois state. This entire story becomes much more complex and contradictory when one considers the persistent forms of private provision of security in the time period under investigation.

The historical studies on the issue suggest that the institutional development and consolidation of the modern police in the 19th century by no means meant the elimination of privative forms of policing. To the contrary, the private forms continued to exit, and even proliferated in some countries like the US, with the main concern of protection of private property (Allen and Barzel, 2009; Jones, 1982; Godfrey, 1999; Gordon, 1991; King, 2008; Little and Sheffield, 1983; McMullan, 1995; 1996; Nemeth, 2005; Swift, 2007; Williams, 2008). Therefore, what is peculiar in this process was not the total elimination of private policing practices, but the legalization and subsumption of those private forms within the institutional structures of the state (Williams, 2008: 194). The practices of legalization and limitation of private policing were indicative of another form of class contestation, which produced constitutive, albeit contradictory, effects on the way the modern bourgeois state established its claim over the *legitimate* violence in an impersonal and impartial form.

The 19th century experiences therefore were typical of the inherent contradictions between the move towards a *new police* of centralized and bureaucratized form and permanence of the *old* policing practices defined with an overt class bias. The private practices of policing, however, did not refer to a unified category, but denoted rather complex and intertwined practices which made the public-private distinction, on which the bourgeois law as well as the state's claim of class neutrality arose, quite problematic. There were various coexisting forms and practices of private policing, all of which were defined on the basis of social property relations and with the concern for the protection of private property. Furthermore, some forms of private policing actively took part in the struggle for incorporating labour into the disciplinary mechanisms of the market, by either performing repressive roles in industrial riots as a support unit for the forces of order, or exercising close surveillance over labour in the workplace to enforce work contracts and prevent unionization struggles of the working class.

The most paradigmatic example of the persistent forms of private policing can be observed in England throughout the 19th century and even in the first half of

the 20th century. The gradual process of the formation of the Metropolitan Police in England was accompanied by the persistence of private forms of policing such as special or additional constables, industrial police and private prosecution societies, all of which were defined with an overt class bias, but co-existed with the public police in intertwined and contradictory forms (Jones, 1982: 154). The persistence of these private forms of policing was indicative of the existence of diverse attitudes among and clashes within the upper classes about the formation of a centralized police force in the country. One constitutive social dynamic in the process of English state formation in this regard was that the property holding classes was not in a solid and uncontroversial attitude towards the new police (ibid: 157). It was quite the contrary that only some portions of them eagerly supported the reformative movement towards the new police. The rest was to deal with the question of (in)security of property in their own terms. This was especially, but not exclusively, the case in the small towns and rural areas, where the Metropolitan Police Force did not (yet) establish its control and surveillance mechanisms as comprehensive and efficient as the ones in the urban areas. Therefore, during the times of industrial riots or provincial disturbances in small county towns, and in industrial Oldham and Bradford, the upper classes " ... put their trust, and money, in private policing, insurance policies and the reassurance of an occasional military presence" (ibid). However, these overt class practices of policing were challenged by the struggles of lower classes to put a limit to these extra-legal practices of violence, which were culminated and materialized in the institutional structures of the modern bourgeois state.

The existence of various forms of private policing should be read within this general framework concerning the contradictory class practices affecting and being conditioned by the state formation process in England. One of the first and foremost examples of the persistent forms of private policing in the country was the system of "special" or "additional constables" throughout the 19th century. This form of policing originated in the medieval times and was recognized for the first time by a statute in 1662 as the genuine agent of the property holding classes to protect their property. Besides their primary

responsibility of protecting property, the special constables were commonly utilized as a support unit for the forces of order in suppressing the provincial disturbances and industrial conflicts during the times of crises (Swift, 2007: 671).

The analysis of the 19th century developments with regard to the special constable system underlines the point that they were not eliminated after the establishment of the centralized police in 1829. To the contrary, there is a strong historical evidence that the development of public police went hand in hand with the empowerment and proliferation of the special constables. For instance, throughout the 1830s, exactly during the persistent attempts for the institutionalization and centralization of the Metropolitan Police, a series of acts were passed by the Parliament which substantially extended the powers of the special constables. These politico-legal acts empowered the magistrates to appoint as many special constables as they regard necessary with a central concern of maintaining the public order. Furthermore, the acts established the grounds for the special constables to have the same powers, authorities, advantages and immunities, which belonged to the ordinary constables defined with reference to the impartiality of the state (Swift, 2007: 671, 672). Empowered with the politico-legal framework of the state, the special constables were incorporated into the forces of order in their struggle against the radicalism of Chartist movement in the 1830s and 1840s.

The system of special constable and its incorporation into the legal framework were particularly important in that with these acts the class-based organization of coercion was legalized and thereby institutionalized at a particularly significant historical moment within which the formation public police forces gained momentum. This was part and parcel of the contradictory process of the formation of the modern police in England. On the one hand, the politico-legal empowerment of the special constable system was another step towards the centralization of policing practices in England as it established the grounds for authorized magistrates to conscript specific citizens to act as fully empowered constables. At the very same time, it meant the proliferation of the practices of

policing that are organized with an overt class bias (King, 2008: 116; Williams, 2008: 195).

The historical evidence suggests that the additional constable system were commonly utilized by property holding classes and they were instrumental to protect private property and enforce industrial discipline well into the mid-20th century. Relying on a secondary statistical analysis on the issue, Williams points out that the special constables in England and Wales constituted 7.3% in 1920, 4.2% in 1939 and 0.7% in 1963 with regard to the total number of the public police forces (2008: 199). Even though the declining rate is clear, the significant point here is that the 19th century internal pacification of society did not mean the total elimination of the private forms of policing practices, but the incorporation of these forms into the institutional materiality of the modern bourgeois state.

The system of special constables persisted especially in small towns and provincial areas while another form of policing was existent especially in the industrial centres of England throughout the 19th century. This form of private policing is called as "industrial police" in literature, whose central concern was to handle with the question of workplace appropriation. This particularly important form of private policing was directly related to the demands of the bourgeoisie to subject labour to the industrial work discipline. Then, the question of how the workplace appropriation was handled throughout the 19th century is of great significance to understand the peculiarity of this form of policing in England.

Throughout the 18th century, the rising bourgeoisie in England tried countless ways to establish complementary forms of policing for managing their relations with the labour alongside the traditional practices of policing. These attempts culminated in institutionalized forms of private policing in the country. In 1777, the Worsted Act eventually established the politico-legal grounds for the constitution of "industrial police", which would protect the means of production in the workplace and compel labour to the industrial work discipline. In their historical analysis on the issue, Douglas W. Allen and

Yoram Barzel point out that the Act aimed to regulate every aspect of the production process with a particular and primary concern of detecting and prosecuting the acts of embezzlement (2009: 13). With the Act founded the Worsted Committee, employers' private police force, in order to take the workplace appropriation under control in the domestic textile industries of Yorkshire, Lancashire and Cheshire. Furthermore, the Worsted Committee took an active part in enforcing work contracts and negotiating wage rates on behalf of the employers. Conducting a detailed historical analysis of the issue at hand, Barry Godfrey argues that the Committee has continued to be one of the most important policing and prosecution agencies on behalf of the employers in England for nearly two hundred years (1999: 57; ft. 3). On the basis of the available historical record, he reports that between 1844 and 1876, about 3000 cases of factory appropriation were prosecuted by the Worsted Committee. This was the *formal* side of the punishment prosecuted by the Committee identified on the basis of the documented historical data. However, as Godfrey warns, many thousands more workers may have suffered from *informal* punishments ranging from dismissal from work to minor physical punishment (1999: 67). Particularly significant point in his observation is that the private prosecutions of the Worsted Committee did continue well into the second half of the 20th century (ibid: 57). Therefore, Godfrey maintains, what is clear from this experience is that "… the Worsted Committee appeared to have a peculiar symbolic 'ownership' of a law which impacted heavily on many workers' lives" (ibid: 68). What is particularly important with regard to this form of private police, which encompasses the question of punishment as well, is that it was complementary to a more general trend of the criminalization of the customary rights of *appropriation* in the 19th century, as discussed in the previous section of the chapter. Therefore, this particular form of private policing clearly demonstrates that the central phenomenon of fabrication of social order based on the wage form as the only means of subsistence was enabled through not only *public* police, but also *private* practices of policing.

The last example within this context is the formation of private prosecution societies in England in the 18th and 19th centuries. In the wake of rapid social change and rising fears of insecurity of property, the upper classes in England began to form private prosecution societies for law enforcement. In their study on the exercise of extra-legal coercion in England and America in the 18th and 19th centuries, Craig B. Little and Chritopher P. Sheffield demonstrate the class character of this peculiar form of policing and practice of punishment by stating that:

> … members signed a formal charter agreeing to pay an initiation and annual subscription fee for the purpose of meeting the expenses connected with the investigation, apprehension, arrest and prosecution of offenders who committed crimes against their property (1983: 798).

The members of these societies included agricultural capitalists, merchants and industrialists who were concerned with the increasing problem of the insecurity of property. These prosecution societies declined in number especially towards the end of the 19th century and became social clubs for the periodical meetings of the members as a result of the consolidation of the centralized police in England. However, the self-initiatives of the property holding classes did continue in the same period under a different form. Especially in the second half of the 19th century, vigilantism became a common practice on the part of the upper classes to end the lawlessness, discipline the lower people and establish an orderly society (Little and Sheffield, 1983: 803). In other words, it was in a way another practice of policing directly initiated by the upper classes with the central concern of disciplining the poor.

The complex and contradictory nature of the issue at the hand can be better grasped by looking at how the state officials tried to handle the issue of private organization and practice of policing with an overt class bias. While the police reformers became increasingly eager to move towards a centralized police force in the post-1829 period, they were well aware of the inherent danger posed by private organization and practice of policing. The following county

constabulary report in 1839 reflects the increasing concerns about the proliferation of private "arms of self-defense" in England by stating that:

> Whilst we have found great readiness to communicate information on the subject of the illegal proceedings, we have found few willing to give evidence. We have experienced that difficulty even on the part of persons engaged in the administration of the law … In Oldham and also in other places it was stated to us that *the owners of manufacturing property had introduced arms for self-defen[s]e*, *and were considering the formation of armed associations or self-protection*. If the principle of self-protection were thus generally adopted which appears inevitable where due protection is not publicly provided, we need scarcely specify the serious inconveniences which are to be apprehended from each manufacturing town being rendered a fortress held by undisciplined troops (Cited in Foster, 1974: 45; emphasis added).

Williams points out that similar concerns were raised in the late 1860s as well. For example, Sir Thomas Henry, the Chief Magistrate at the Bow Street, raised this concern in front of the 1866 Select Committee on Theatrical Licenses and Regulations by stating that "the police, who are stationed in the theatres, are really the servants of the proprietor" (Cited in Williams, 2008: 195). This means that the police reformers of the time were well aware of the inherent danger posed by this persistent form of policing because of the fact that the system of special constables would run the risk of "arming class against class" (Swift, 2007: 673). Such concerns indeed made the bourgeois state to incorporate the private forms of policing under the framework of law, but not the total elimination of them.

The practices of private policing were not limited to the case of England in Europe, but continued to exist in many continental European countries. For instance, on the basis of the historical work of various scholars, Colin Cordon argues that there were significant continuities between the liberal governmental rationality that was consolidated in the 19th century France and the older practices of policing (Gordon, 1991: 24). The industrial discipline in the 19th century France was reinforced and maintained by not only the centralized forms of policing, but also a peculiar system of "delegated, legally mandated

private authority" of the industrial capital. Jacques Donzelot argues that such a form of domination characterized the industrial relations in France throughout the 19th century. To understand the significant idea inherent in this argument, it is quite important to cite Donzelot who underlines that:

> The contractual economic relation between the worker and employer is coupled with a sort of contractual tutelage of employer over worker, by virtue of the employer's total freedom in determining the code of factory regulations, among which he may include – as is most often the case – a whole series of disciplinary and moral exigencies reaching well outside the sphere of production proper, to exercise control over the habits and attitudes, the social and moral behaviour of the working class outside the enterprise ... The reason given for this executive responsibility on the part of the employer, the pretext for this particular reinforcement of his powers, is the *singular* character of each enterprise (Cited in Gordon, 1991: 25-26; emphasis in the original).

This significant assertion refers to the fact that the labour was incorporated into the industrial work discipline not only through the coercive lever of public power, but also in the very process of consolidation of capital's "private authority" over the labour in the workplace. Class control over the means of production meant that the organization of the production process, which did include the fundamental questions of order, safety and security, would reflect the interests and concerns of the property holding classes. In this regard, François Ewald's elaboration on a Napoleonic edict of 1810 provides an explicit manifestation of this phenomenon. The legal and regulatory document in question gave important concessions to the private enterprise in terms of the national mineral rights on the condition that the employer was to ensure the "good order and security" among the "mass of men, women and children". In the words of Ewald:

> A mining company was as much an enterprise of pacification, even of regional colonization, as a commercial undertaking ... these spaces of private enterprise are, from the standpoint of common law, strictly speaking illegal. The law, nevertheless, allows them, so long as they properly fulfil their task of order and security; they do not lie outside the sphere of public order

> just because, on the contrary, they maintain that order by producing docile bodies (Cited in Gordon, 1991: 27).

Speaking within the context of Foucauldian analysis of liberal governmental rationality, Gordon regards such private practices of policing as the "privatized micro-power structures" (1991: 27), which meant a particular "delegation of regulatory oversight (and power) to the proximate, distributed micro-level of the individual enterprise and employer" (ibid: 26). Keeping aside the problematic points inherent in this neo-Foucauldian analysis of liberal governmentality[8], what is important here is to observe that the private forms of policing were not outside the general politico-legal framework of the capitalist state, but inherent and complementary to the general policy of order in 19th century France. Therefore, what is meant by "delegation" refers to not total elimination of private practices of policing, but a particular redefinition and incorporation of overt class practices of policing into the allegedly impersonal and impartial policito-legal framework of the state.

The private forms of policing were much more widespread in the US throughout the 19th and the 20th centuries. However, even though it has been "one of the oldest forms of professional policing in the nation", the private police has been largely ignored in the scholarly studies on the formation of the "new police" in the US (Weiss, 1986: 87), as in the other cases discussed above. Organized under different forms, the private practices of policing were instrumental with respect to the issues of protecting the private property, managing the problem of vagrancy, disciplining the rising working class militancy and the like. Their role in managing the industrial relations was so extensive that "the continuous policing of labour was almost the sole responsibility of private detectives until the First World War" (ibid: 88) and it rapidly became a "private army of capitalism" (Monkkonen, 1992: 563). The historical struggles of working class did play significant roles in the transformation of the private policing practices in the US as well. Therefore, as underlined with regard to the other cases above, the question of private

[8] For the critical examination of this recently popular scholarly tradition, see Chapter 2.

provision of security did denote a contested terrain, which was gradually incorporated into the universal-legal framework of the state, but continued to pose a challenge to the obscuration of impartiality.

In the second half of the 19th century, there were consistent efforts on the part of the industrial capital to resolve the increasing problem of (in)security of property and manage the rising working class militancy with the help of the private police. In a period of expansion of capitalist relations of production, which was particularly enabled by the technological improvements in railroad transportation, Pinkerton National Detective Agency, as the first private security company in the modern sense of the word, was established in the 1850s. It was initially utilized in the railroad industry to ensure secure transportation of commodities, but gradually expanded to include many other industrial sectors. Even though it was mainly utilized by the industrial groups in railroads and mining groups, the Pinkerton Company was "famous" of its activities in suppressing the working class uprisings, preventing the strikes and spying on the unionization attempts (Nemeth, 2005).

The controversial role played by the Company can best be observed in 1892 lockout of Homestead, Pennsylvania, which was one of the most famous labour disputes in history of the US (Monkkonen, 1992: 562). When the local police supported the workers' lockout, the industrialists resorted to the Pinkerton Company and hired private police guards to suppress the working class discontent. The private guards of Pinkerton intervened into the strike with violent and brutal means, which is known as the Homestead Massacre. For Monkkonen, this incident underlined two significant traditions with regard to the social basis of consent over the public police and the long tradition of "self-help" that the property holding classes resort whenever necessary and possible: "the police have local political ties by virtue of their local funding, and that their responsiveness to local circumstances created an opportunity for private enterprise, the private police" (Monkkonen, 1992: 562).

This overtly utilized coercive class tool, however, was not free from contradictions of its social constitution, and therefore did not escape from

politico-legal scrutinization. In fact, it was a turning point in the history of private policing in the US because the violent intervention of private guards of Pinkerton to the strike increased popular pressures on and discontent with the activities of private police in the country. As such, the name "Pinkerton" became synonymous with labour spying and strikebreaking in the late 19th and the first half of the 20th centuries (Nemeth, 2005: 10). The popular resentment forced the states in the country to take measures against the illegal activities of the company. In 1893, not on federal level but at the level of states, many anti-detective legislations were enacted. The result was that "strikebreaking was out and labour surveillance *within legitimate bounds* was in" (ibid; emphasis added). As late as 1930s, Pinkerton was leading the industrial espionage activities with more than 1.000 "secret police" operating in all major unions. From 1940s onwards, the company underwent organizational and functional transformation and re-organized in the form of legally mandated private security business (Monkkonen, 1992: 564), as proliferated throughout the advanced capitalist countries in the post-war period.

The historical studies on the private forms of policing have also revealed that the private police agencies like the Pinkerton were not the only practice of private policing in the US. It is rather that the upper classes have traditionally resorted to every possible means to safeguard their property and cope with the industrial disputes arising out of the working class mobilization in the country. Besides private police agencies, another common form of private policing practices was "anti-theft societies" or "private protective societies", which were organized on the condition of property holding and proliferated throughout the second half of the 19th and the first half of the 20th centuries. In her extensive research into the issue, Ann-Marie Szymanski points out that the 19th century America witnessed a sudden proliferation of antitheft societies which were established to protect private property at a time when the traditional forms of social order practices were eroding and public police had not yet established (2005: 418). It was a form of policing as collective security formed by the property holding classes to resolve the problem of insecurity of property. The entrance to the antitheft societies was conditional and only those

possessed property could join. They often organized vigilante patrols to control and punish those like the vagrants posing a direct challenge to the daily reproduction of social order and security of property.

Such “societies” were not eliminated in the process of consolidation of public police in the country, but did persist well into the mid-20th century and performed policing functions in tandem with the other “private” and “public” policing forms. The following observation of Monkkonen reaffirms the persistence issue. Relying on secondary sources, Monkkonen refers to the 1934 workers’ strike in Minneapolis, which was suppressed by Citizens’ Alliance, a vigilante group organized by the industrialists and states that:

> The so-called Citizens' Alliance was in fact a group of businessmen vigilantes who supplemented the police in the strike. Formed in 1917 to keep Minneapolis an "open shop" city, it successfully "eliminated the political threat of the WPNPL [Working People's Nonpartisan League of the Minneapolis trade unions] and the NPL [Nonpartisan League], deunionized the Minneapolis police, maintained an effective intelligence service, and helped establish a Highway Patrol and a Bureau of Criminal Apprehension headed by men it could trust" (Millikan 1989, p. 233). Its political clout and credibility ended when its members tried to drive and guard trucks to keep goods flowing in the strike. Armed with clubs and guns, the vigilantes actually got into armed conflict with the strikers, where their amateurish aggression resulted in deaths. After this misadventure, one in which the governor intervened on the side of the strikers, the Citizens' Alliance did not disband but instead hired parapolice to do investigative and patrol work (Millikan 1989). In essence, this private group used force of dubious legality to supplement the legitimate police when they were unwilling to step over the bounds of legitimate action (Monkkonen, 1992: 564, 565).

This particular example reveals the fact the property holding classes did utilize every means possible to deal with the problems arising from the contradictory character of capitalism such as vagrancy, working class militancy, (in)security of property, etc. It was not quite easy for the capitalists to give up such a particular form of policing because of the fact that they cannot always rely on the public police forces, which in one way or another always felt the need of legitimate reproduction of its politico-legal practices. However, this does not

mean that there has always been a clear distinction between the "public" and "private" forms of policing. The private detective agencies like the Pinkerton Company, the private protective societies as in the case of Citizens' Alliance or the other forms of private policing did often use public resources and personnel, which ultimately blurred the public-private distinction. This point not only raises the question of contradictory character of state's claim on class-neutrality, but also reveals the fact that the upper classes try different strategies to overcome this very problem in their own terms. Monkkonen gives a clear insight with respect to these points with the below stated assertion made on the basis of secondary sources:

> Private police like the Pinkerton and Burns agencies gained their economic advantage by moving across political regions, using means of dubious legality, and working only for the moneyed. But they were not the only private police, for another form of non[-]municipally controlled police has been present in American cities since the 1890s, consisting of privately employed off-duty police officers and, more important, public officers appointed and employed solely by private organizations. Rebecca Reed's (1986) work on Detroit has shown how these officers, their commissions issued by the police department, grew in numbers as crime (indicated by the homicide rate) and population increased while the per capita police budget decreased (p. 5). About one-fourth of these officers were employed by other municipal agencies, and about two-thirds were employed by businesses (p. 10). In essence, businesses hiring these officers simply eliminated the services of detective agencies. She also has evidence that *the police department was "reluctant" to let the police be used in strikes and that these privately employed police may have been business's response to the official aversion to strikebreaking* (pp. 11-13) (Monkkonen, 1992: 564; emphasis added).

What is left to be (re-)underlined on the basis of these assertions is that the persistence of the private forms of policing did pose a direct and contradictory challenge to the ways though which the capitalist state's claim of impartiality is reproduced. This contested issue, as the above examples reveal, was quite widespread not only in Western European countries but also in the US throughout the 19th century as well as in the first half of the 20th century. On the basis of the above discussed examples, it is quite significant to underline

the point that the lower classes did play constitutive, albeit contradictory, roles in the process towards the formation of the public police in an impersonal and impartial form. Furthermore, their struggles significantly contributed to the incorporation of extra-legal practices of policing that the upper classes employ into the universal-legal framework of the state. This ultimately leads to the general assertion of the entire chapter, and thereby the entire thesis, that the state's claim of class neutrality did denote a particular social reality which was founded on the basis of material social interests and practices, even though they were not exempt from social contradictions.

3.4. CONCLUSION

This theoretical-cum-historical discussion on the state-class-coercion relationship has demonstrated that policing as a form of political administration should be understood within the context of social property relations and in relation to class struggles. This fundamental assertion has guided the discussion in this chapter on the organization of policing in the pre-capitalist and capitalist societies. In this regard, contrary to the overt class character of policing in feudalism, the historical specificity of the capitalist state power and thereby the public police lies in the apparent distinction between *class power* and *state power*. This distinction was grounded in the separation of the political from the economic, and was historically acquired a specific bourgeois character in the 19th century. That is, the modern police which undertook the task of impartial enforcement of the rule of law, emerged at the onset of the capitalist social relations and actively took part in the process of the fabrication of bourgeois social order. In this process, the working class question was dealt with through not only violent interventions into the organized struggles and everyday practices of subordinate classes. This concern also included organization of consent and incorporation of working class into the emerging bourgeois democratic institutions of the state. That is why, as underlined on

various occasions, the public police has enjoyed a "precarious position", "schizophrenic image" or "double-aged nature" in the modern capitalist societies.

While carrying out such an historical-theoretical investigation, the chapter has focused on the development of private forms and practices of policing. "Internal pacification" of society in the 19th century did not mean the total elimination of the private forms of policing, but their incorporation into the institutional materiality of the modern bourgeois state under the obscuration of impartiality. Therefore, the processes of state formation included not only the formation of centralized public police, but also the constitution and legalization of different forms of private policing well into the mid-20th century. This phenomenon ensures that the fabrication of social order based on the wage form as the only means of subsistence was enabled through not only public police, but also private practices of policing. This, however, has meant that the private forms of policing did pose an inherent challenge to and tension within the ways through which the modern bourgeois state reproduces itself, not only discursively but also materially, with the very claim of impartiality.

All in all, it is the contention of this thesis is that the post-war proliferation of private security, which gained a radical momentum in the era of neoliberal globalization, should be read within this historical-cum-theoretical framework. As will be discussed, the neoliberal forms of private policing becomes not an indicator of the "end of state monopoly over violence", but the resurgence of this already existing tension with regard to the impartial reproduction of the capitalist state through the mediation of public provision of security. The following chapter tries to develop a discussion on the contradictory process of privatization of security in Turkey with a view to problematize how the exacerbation of this constitutive tension redefines the question of impartiality.

CHAPTER 4

PRIVATIZATION OF SECURITY IN TURKEY IN THE NEOLIBERAL ERA

4.1. INTRODUCTION

The rise and proliferation of private forms of policing have meant a peculiar response to and outcome of the contradictory process of neoliberal restructuring in the post-1980 period in Turkey as well as in many other countries. This process has been characterized by and accompanied with a central tension which has been conditioned by the dilemma between social control and social legitimacy. On the one hand, the capitalist state has been trying to restore social legitimacy in the face of unpopular economic and fiscal policies (see Goldstein, 2005; Sanchez, 2006). On the other hand, the coercive apparatuses of the capitalist state have been restructured in an ever professional and authoritarian manner to maintain and continue with the neoliberal reforms, and to cope with their consequences. The authoritarian restructuring of the coercive state apparatuses can be observed in the militarization, professionalization and expansion of police organizations (see Berksoy, 2007b; 2010; Uysal, 2010; Wacquant, 2001a); in the (re-)constitution of the prison systems to confine the underclass (see Bauman, 2006; Wacquant, 2001b), and to pacify the radical political alternative (see Banu Bargu, 2010); and in the reformation of the criminal law system in an ever exclusive and punitive manner (see Özdek, 2002; Paye, 2009). Thus, the entire fabric of social control has become more authoritarian than ever, resulting in crisis of liberal democratic institutions and practices in the era of neoliberalism (see Bonanno, 2000; Brown, 2003; Bonefeld, 2006; Iturralde, 2008).

Within the context of all these transformations, a hybrid, complex and ambiguous form of policing, i.e. private security, has been constituted and

proliferated in the post-1980 period. The present chapter will try to develop a critical and reflective discussion on the phenomenon of privatization of security in Turkey on the basis of the theoretical-historical framework, which has been constructed with regard to the modern bourgeois state and the modern police in the previous chapter. It seems plausible to state the central argument of the chapter at this initial stage before going into the detailed analysis of this complex and contradictory facet of neoliberal transformation. The process of privatization of security in Turkey has been a contradictory phenomenon through which the capitalist state has established novel forms of authoritarian governance while experiencing a kind of crisis in terms of the reproduction of its alleged impartiality. Therefore, the chapter problematizes the question of how the modern bourgeois state form has been transformed in the process of privatization of security in Turkey. The following questions are raised to make sense of the issue at the hand: To what extent the question of impartiality is redefined in the process of privatization of security? What kind of *fusion* has emerged between *public* and *private* forms of policing amidst this transformation? With a quest to provide comprehensive answers to such questions, the chapter problematizes the phenomenon of privatization of security as a contradictory social transformation through which concrete historical clues can be found with regard to the tendency of the fusion of class power and state power. Therefore, such an analysis does provide important insights to identify the crucial transformation in the modern bourgeois state form, which is understood within the specific context of the thesis as the alienated form of institutional materialization and condensation of class contradictions in an impersonal and impartial manner.

The discussion below will try to discuss the process of privatization of security in Turkey within the context of the contradictory transformation of the capitalist state in the era of neoliberal globalization. It is asserted that the process of privatization of security has been determined by different, albeit closely intertwined, transformative dynamics that have been at play in the two phases of neoliberalism (see Gamble, 2006). It is an historical periodization which takes the transformative moves from the 1980s to the early 2000s as the

first phase of neoliberalism, within which the social relations were subjected to a relentless assault of the capital. In this era, the original neoliberal project attempted to create so called minimal state through the processes of dismantling of the welfare state and opening all the social spheres into the capital accumulation processes. The contradictory but characteristic feature of this period was that the property relations were transformed through illegal, unrestrained and uncontrolled practices. The process of state restructuring was determined within this context as a contradictory facet of the general transformation underway.

In fact, as the following discussion will underline, the phenomenon of privatization of security was one of the most important, albeit scholarly neglected, aspects of the contradictory restructuring of the capitalist state in the first phase of neoliberalism. This chapter will underline that in this period in Turkey the incorporation of security into the commodity relations has been enabled through informal, unlawful and contradictory practices on the part of the capital as well as the state. These contradictory practices were materialized through formal and informal sets of relationships, which did provide the framework within which the private security was established and thereby began operating as a sector. To the extent that these formal and informal practices established this sector as a hybrid, complex and contradictory sphere of amalgamation, they have blurred the materially and discursively constructed distinction between *legal* and *illegal* organization and exercise of coercion in the social body. Therefore, this very phenomenon of amalgamation characterized the first phase of the process of privatization of security as well as it established the grounds for social contradictions with respect to reproduction of the capitalist state with its alleged impartiality.

The second phase of neoliberalism is concerned with the consolidation and institutionalization of previously initiated transformations, and coping with their social and economic consequences especially from the early 2000s onwards in Turkey. In fact, it has been a globally experienced phenomenon, and manifested in the recent rise of the constitutional politics in the world. As

being a counter part of the first phase of neoliberalism, this institutionalization and constitutionalization phase has aimed to "… legitimate[] and lock[] in the power gains of the propertied (capital) by constitutional amendment, international agreements or other juridical-political means" (Gill, 2002: 60). Speaking especially within the context of Turkey, the period after the 2001 crisis has demonstrated that the neoliberal transformation has entered into a kind of institutionalization phase in the country. It has been in one way or another the consolidation of authoritarian restructuring of the capitalist state to secure the outcomes of the previous era, and to cope with the social and economic crises arising out of it (BSB, 2008; 273; see also Gambetti, 2009; Oğuz, 2009). Within this context, it is quite important to observe that 2004, the year for the enactment on the law on private security, constitutes a turning point in the process of privatization of security in Turkey in the sense that it established the politico-legal grounds for the institutionalization of an already constituted and operating sector.

Within the context of this broad historical periodization, the chapter is organized in three parts. The first part is concerned with the time period from the 1960s, when the initial demands for private security were raised, to the *coup d'état* of September 12 in 1980. In this initial process, as will be extensively elaborated, the intensification of organized class struggle made the property holding classes as well as the state agencies to consider *alternative* forms and means of policing to ensure the security of public and private property in the 1960s and the 1970s. On the basis of the argument developed in the previous chapter, this particular discussion will also underline the point that the private provision of security has always been existent especially with regard to the security of property, and it has proliferated as a response to the increasing contradictions of the social order in the post-1970 period. In the second part, which examines the period from 1980 to 2004, the discussion will try to underline the intensification of the commodification process in the sphere of security. A quite interesting phenomenon to be examined in this process is that privatization of security included not only the private provision of security through commodity relations, but also constitution and proliferation of a

peculiar form of *private police*, which was established with an overt *public* bias with the law no. 2495 enacted in 1981. This novel form of policing, however, was accompanied, and indeed gradually and partially replaced by the phenomenon of private security which was organized on the basis of *impersonal imperatives* of the market. Especially this second facet of privatization of security in Turkey established the grounds for the area of security to be incorporated into the capital accumulation process in an unlawful and contradictory manner, which could not be easily controlled by the state until 2004. Nevertheless, this did not mean that the state was externally related to the fundamental transformation in question. As will be discussed, the form of state's presence in this process was determined by both informal and formal practices, which indeed reflected the contradictory character of state restructuring in the first phase of neoliberalism.

The chapter will lastly concentrate on the law no. 5188, which was enacted in 2004, and the condition and development of private security sector from then on. This particular historical narrative will try to underline that the post-2004 period refers to nothing, but the consolidation, institutionalization and thereby legalization of an already existing sector, which was illegally and informally constituted. In order to underline how such an institutionalization was realized, the chapter will discuss the concrete material mediations through which the particularistic interests, which had been already formed before 2004, were transferred into the state sphere. This part will also pay particular attention to the issues of the form of policing as established with the law and the relationship between public police and private security in order to make sense of contradictory basis of the authoritarian reproduction of the capitalist state power through *private* forms of policing.

Before going into the detailed analysis of all these discussions, it is important to re-underline one central point with regard to the general discussion as developed throughout the thesis so far. It is about the theoretical-cum-historical inference that has already been made in Chapter 3, which draws a significant framework in understanding the privatization of security within the broader

context of the state restructuring in the era of neoliberalism. As already underlined, the public police refers to a historically constituted phenomenon which crystallizes the central tension between social control (class nature of the state) and fabricated consent (alleged impartiality) within itself. This tension in a way characterizes all the three phases of privatization of security in Turkey. That is, to the extent that the public provision of security has been one of the principal mediations through which the alleged impartiality of the capitalist state is materially and discursively reproduced, the process of privatization in this sphere has been characterized by the tension between social control and social legitimacy. It is the dilemma determined between state's quest for intensifying social control in the wake of increasing socio-political threats to the established order on the one hand, and ensuring social legitimacy in the face of privatizing a core public service on the other. It is the argument of the present chapter that the entire process of privatization of security, which has been enabled in different forms since the 1960s to the present, can and indeed should be analyzed and understood with reference to this central dilemma. This tension, as will be demonstrated, has been manifested in the contradictory state practices as well as in the contested practices of social classes in everyday life. Determined in and through these contradictions, this tension could only be *resolved* in the second phase of neoliberalism with the enactment of the law no. 5188 in 2004. The question of "what was resolved in reality?" will be the central problematique organizing the whole chapter in this regard.

4.2. FORMATION OF THE INITIAL DEMADS FOR PRIVATE SECURITY IN THE PRE-1981 PERIOD

The question of private security came to the agenda of Turkish socio-political life in the 1960s and the 1970s as a particular manifestation of class contradictions that began to increasingly include overt forms of violence in everyday life. It was part and parcel of the quest for resolving the question of

insecurity of public and private property within the context of social struggles and contradictions that shook the existing socio-political order. More specifically, the initial concrete demands in this line were raised in the 1960s with the aim of ensuring the safety and security of the public dams. These demands were gradually translated into the state sphere to establish the legal basis for the formation and operation of private forms of policing in everyday life. This process, however, was highly contentious and contradictory in terms of both the institutional clashes within the state sphere and the contradictory practices in everyday life. Thence, the analysis below will firstly analyze the politico-legal struggles for the legalization of private police throughout the 1960s and especially the 1970s. Then, the concrete practices of private provision of security will be analyzed in order to underline the persistence of different forms of private provision of security irrespective of the lack of a coherent politico-legal framework. While debating these two issues, it will be contended that the relations between the public police and private security was constituted not in isolation from one another, but through ambiguous and contradictory operation of public and private forms of power.

4.2.1. Constitution of Private Security as a "Political" Question

The year 1966 can be read as a starting point for the constitution of private security as a political question because it was the first time when the issue was debated in a serious manner at the level of the National Security Council (MGK). It was so that the MGK felt the need to take an advisory decision that the security of the dams in the country would be ensured by means of a particular body of private police. From the available secondary sources, it is not so clear why the MGK felt the need to conclude such an advisory decision at the time. However, some cop-sided sources explain the issue within the context of socio-economic transformation of Turkey in the 1960s and the 1970s. Mustafa Gülcü is among those who share this perspective by stating that:

> It is not coincidence that the pursuits of private security came into being in 1966. If this issue was not raised within the context of securing the public dams, the ongoing social and economic changes would have forced this anyway (2003).[9]

In fact, Gülcü implicitly acknowledges that the transformations in social property relations as a result of "the ongoing social and economic changes", which refer to the rapid waves of industrialization and urbanization in the country, gave rise to a particular demand for the private provision of security at the time. As another cop-sided perspective, Salih Güngör's observations in this regard complement this picture with a particular focus on the social and political crises at the time. Relying on the commonly utilized argument of "the fiscal crisis of the state", he asserts that:

> The necessity of [p]rivate [s]ecurity in our country was born out of the insufficiency of state's public forces *in the face of terror, sabotage, violence, illegal strike and workplace occupation that occurred in the pre-1980 period* (Güngör, 2005: 127; emphasis added).

Therefore, one can argue that the demands for private provision of security were born out of a crisis period and as a response increasingly manifested class contradictions in everyday life. In this regard, the advisory decision of MGK in January 1966 was functional in translating the issue into the state sphere as a politically contested question. It was *contested* because private provision of security gradually became a subject of the politico-legal struggle within the state itself. From this moment onwards, there emerged concrete political attempts to codify laws on and institutionalize the basis of the private provision of security. Upon the advisory decision of the MGK, the first draft law and

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[9] It is important to underline the fact that at the time of writing this article, Mustafa Gülcü was a 1st class police chief and the head of General Directorate of Security, Department of Research, Planning and Coordination (*Emniyet Genel Müdürlüğü – Araştırma, Planlama ve Koordinasyon Daire Başkanlığı - APK*). This particular information gives clues about how the administrative heads of the police eagerly supported the move towards the privatization of security and even legitimated the transformation underway with reference to the *natural* needs arising from the concrete socio-economic and –political transformations. This particular discourse utilized by various public institutions and high level officials will become much more evident in the process towards the enactment of the law on private security in 2004. Furthermore, as will be contended, such perspectives are defined within the context of informal and formal sets of relationships through which the particularistic interests are transferred to the state sphere in the process of institutionalization of the private security.

corresponding regulatory documents were prepared in February 1966 by the Ministry of Energy and Natural Resources upon the request of the Council of Ministers (CoM). Entitled as the "Draft Law on Private Conservation Organization in Institutions (*Müesseselerde Özel Muhafaza Teşkilatı Kanunu Tasarısı*)", the draft law aimed to provide legal basis for the establishment and operation of private security organizations in the public and private places which are regarded as being in need of permanent policing service. This draft law was prepared especially for ensuring the security of dams in line with the advisory decision of MGK through the establishment of the private conversation organizations under close and strict supervision and control of the state. Besides the draft law, the Ministry prepared the Regulation on the Protection of Dams (*Barajları Koruma Yönetmeliği*) in the same period to identify the conditions with regard to private conservation of and personnel employment in the dams. While the second legal document, the Regulation, was brought into force in the 1966 meeting of the CoM, the first legal document, the draft law, could not be enacted in the parliament. It was mainly due to the fact that the conflicting perspectives of political parties over the issue of private security did prevent it from being enacted. Therefore, the Regulation did suffer from the lack of legal basis till the 1980s (Dönmez, 2007: 135; Gülcü, 2003).[10]

The demands for private security intensified throughout the 1970s. Under the conditions of increasing working class militancy and student mobilization, the

[10] At this point, it is interesting to observe the point that one of the central state institutions on the issue of security, i.e. the army, did play a pivotal and affirmative role in initiating the debates over the private provision of security. In fact, it seems ironic to observe that those raising demands over the legalization of private police have always been the state institutions which have particular security functions like the army, police organization, martial commands, the Ministry of Interior, etc. From the conventional Weberian perspective, it becomes impossible to understand this phenomenon, if one considers for instance that the army is the core institutional organization of the state claiming the monopoly over the means of violence. However, this particular point provides an important clue to understand the capitalist state not as a monolithic institutional entity, but essentially contradictory and multifaceted form of political power, which is restructured in and through struggles both within its institutional organization and in relation to social classes. In fact, this non-monolithic nature of the capitalist state lies at the heart of the contradictions of its institutional restructuring in the process of privatization of security.

property holding classes and state authorities were concerned with the question of insecurity of public and private property. Especially the ideologically motivated acts of bank robberies created the material and discursive basis for the concerns over the security of the property to be raised and politicized in a serious manner. These concerns were expressed so widely that various state institutions having direct security functions often raised the explicit demand of the enactment of the draft law on private security. For instance, the Ankara Martial Command demanded in March 1973 that the draft law on Private Conservation Organization in Institutions should be immediately enacted in order to "… prevent those dams, which have important roles in terms of the development of the country, from failing to have security personnel and from becoming suitable targets for the anarchists" (Cited in Gülcü, 2003).

The intensification of these practical demands did find their manifestations in the second legislative attempt to create politico-legal grounds for the codification and institutionalization of the private police. On June 7, 1973, another draft law on Establishment of Private Conservation Organization in Institutions, which was literally speaking the same as the one prepared in 1966, was prepared by the Ministry of Interior and submitted to the Turkish Grand National Assembly (TGNA) on June 13, 1974. However, particularly due to the parliamentary clashes between the opposing political parties, the draft law was not brought into parliamentary debates for about 17 months. Complaining about such a delay, the then Minister of Interior requested that the draft law should be brought into the parliamentary debates immediately by arguing that:

> Especially the bank robberies that have been occurring in the recent months have revealed the insufficiency of the precautions with regard to security, and demonstrated the necessity of supplying the government with the powers as anticipated in the draft law (Cited in Gülcü, 2003).

The draft law was debated in the TGNA Commission of Justice and rejected by a majority of votes. It is important to remind the particular fact that the rejection was determined within the context of the political-ideological clashes in the parliament. While the members of the left-wing Republican People's

Party (*Cumhuriyet Halk Partisis* - CHP) of Bülent Ecevit voted against the draft law, the members of the right-wing National Salvation Party (*Milli Selamet Partisi* - MSP) of Necmettin Erbakan took a positive stance towards it (Gülcü, 2003). The reasons of the rejection were reflective of how the issue of private security was perceived as a contested political question, which is directly related to the very existence and operation of the public power. Gülcü summarizes the reasons in his own words as in the following:

> 1) The Draft Law is contrary to the Constitution. Because; a) the security services are the primary public services, b) according to our Constitution, the public services are managed by the state, c) it is not possible according to the Constitution to transfer the powers of public services to the private persons. 2) the enactment of the draft law is prejudicial also in terms of the administration: a) the incidents occurred after the proposal of the draft law have made the establishment of private police dangerous, b) there can be contradictions between the powers of the police to be established and the Law of Criminal Procedures (*Ceza Muhakemeleri Usulü Kanunu - CMUK*), c) there might be frictions between the public police and the private police to be established. If the public police is insufficient, the state should empower it (2003).

What can be inferred from the above cited position of the Commission of Justice is that the issue of security was perceived as a constitutive aspect of the state's *raison d'être,* which should be publicly organized and provided. The central concern raised was directly related to the possible dangers to be posed by the privatization phenomenon to the alleged impartiality of the state. Such a concern was much more explicitly manifested in the following quotation from the same report of the Commission: "For the State to say 'I cannot ensure security, and thus will utilize the private police' means a weakness, which would lead to the confidence on the state to be shaken" (Cited in Gülcü, 2003).

The failure in enacting a law on private security did not put an end to the politico-legal attempts in this direction. Towards the end of the 1970s, another draft law entitled as "Preservation and Ensuring the Security of Banks and other Institutions and Organizations (*Banka ve Diğer Kurum ve Kuruluşların Korunması ve Güvenliklerinin Sağlanması*)" was prepared by a special

parliamentary commission. The draft law generally reflected the structure and content of the previous draft laws, and submitted to the TGNA Presidency on April 8, 1980. As in the previous case, this draft law was rejected by the TGNA Commission of Justice on the grounds that it was contrary to the Constitution. The Commission re-stated previously raised concerns with regard to the issue of private police in its report on June 30, 1980. In this report, the Commission took even more radical stance against the private police by arguing that it would mean deepening *the class divisions*. Below is the summary of the position taken by the Commission:

> 1) Private security personnel is not public servants, therefore they cannot perform public service. 2) There is a risk that the private police, which are empowered by police powers and commanded and paid by the private employer, to become the tools of prejudicial practices. 3) Because private security units would be established in some institutions on the basis of private law, *a privileged class will be created with respect to those who cannot establish private security units* (Cited in Gülcü, 2003; emphasis added).

The above cited position provides the most explicit manifestation concerning the fact that the Commission took radically political stance against the private provision of security. It was mainly concerned with the impartial reproduction of the state power, which is expressed in the underlined danger of creating "a privileged class" against those who could not afford private means of security. On the other hand, the concerns over "prejudicial practices" refer to the Commission's warning that the private provision of security would open the way to the foundation and proliferation of "mafia-like" organizations.[11] This radically political stance against the private police reflected the above mentioned contentious relationship constructed in the state sphere. In response to this particular insistence on the question of impartiality, the TGNA Commission of Interior argued against the claims of the Commission of Justice by stating that:

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[11] It is quite important and indeed ironic to observe that almost all the warnings of the Commission have seemed to be experienced in the post-1980 period, as will be discussed in the following parts.

> With the draft law, a public service is not transferred to a private institution. The powers and responsibilities of the public police forces do continue as in the past. [However,] *it is impossible to ensure the security of the persons and property of each and every individual by the state forces* (Cited in Gülcü, 2003; emphasis added).

There are a number of crucial points to be re-underlined here as they are reflective of the general character of privatization of security in the post-1980 period as well. First of all, the institutional clashes arise out of the non-monolithic, contested and contradictory organization of the capitalist state. This in one way or another makes the institutional organization of the capitalist state to be read as *an arena for struggle* which is therefore organized and restructured in and through permanent struggles of social forces. Besides, these radically different positions demonstrate that the issue of private security was constituted as a contested political question concerning the very existence and impartial reproduction of the state itself. While underlying all these, it is quite important to remind that this contentious relationship was determined within the context of a central dilemma for the capitalist state. This fundamental dilemma is politically constituted between the extreme poles of ensuring the social consent and intensifying social control in the face of increasing social contradictions and antagonisms. At this point, it is important to have a look at the concrete social practices to understand even more contradictory character of formation and operation of private forms of security in the pre-1981 period.

4.2.2. The Concrete Practices of Private Provision of Security

Throughout the 1960s and the 1970s, the actual state of affairs was not constrained by the absence of legislation on private provision of security. That is, the practices of social classes and public institutions did reveal the fact that the private provision of security was realized through various *de facto* forms, even though there was no legal framework through which such practices would be legalized. In fact, such practices were so common that the everyday social relations were in one way or another policed through informal forms of private

police, which existed in a complex and intertwined relationship with the public police. That is why the question of private security was constituted from the beginning in close, albeit contradictory and complex, relation with the public police. Hence, it has not been possible to make a categorical and ontological distinction between the public police and private forms of security provision. At this point, a critical elaboration on these practices will reveal the second aspect of the fundamental contradiction at hand.

As early as the 1960s, some shopping centres in big urban cities like Istanbul were already utilizing private watchmen to ensure the security of private property (Çetin, 2007: 17; Şeneken, 2001: 43). Especially the big business enterprises did ensure their security through the informal employment of security personnel (Şafak, 2004: 89). This was particularly due to the fact that the transformation of social property relations in the wake of the industrialization and urbanization of the country made the upper classes to search for *alternative means* of resolving the question of (in)security of property. Özcan Karaman provides a descriptive account of the phenomenon even though he resorts to a rather *neutral* language by stating that:

> In Turkey after 1960s, as a result of the rapid industrialization of big cities, these places experienced rapid population growth due to needs for labour force. As a result of this rapid industrialization and population growth, the private industry institutions chose the way to ensure their own security by their own means (2004: 126).

Within a more critical and literary perspective, Can Kozanoğlu underlines that the "unofficial security personnel" like gatemen (*bekçi*) and bodyguards (*fedai*) were among the common forms of policing in the past. In his own words:

> The factories, storage buildings and sporadic building complexes were used to have private gatemen. These were more often feeble and wretch people. They did not qualify as a deterrent force, but they were sentinel and reporter. If there occurs a trouble … the gatemen informs about the trouble.
>
> The bodyguards initially echoed with bars, pavilions, gambling houses, then with roughneck (*kabadayı*). They were called as bar bodyguards, pavilion bodyguards, bodyguards of so-and-so

> roughneck … In the times of incident, some were used to feel the necessity to say "all right! (*eyvallah*)" to the bodyguards, however, working as a bodyguard was not a respectful job (Kozanoğlu, 2001: 155).

These descriptive assertions remind one of the central arguments as developed in Chapter 3 on theoretical and historical grounds. It is the specific claim that the upper classes have always searched for the ways through which they would ensure their own security without constant resort to the public police. Therefore, it is plausible to assert that the private practices of policing have been more commonly embedded in everyday social relations than conventionally thought of.

This central argument is further strengthened with the following observation on another and more *institutionalized* form of private provision of security, i.e. private police, which proliferated throughout the 1970s without being based on any legal framework. In the 1970s, several banks and public institutions began to ensure the security of their organizations through various private policing forms, the most important of which was the "Bank Teams". As discussed above, the central concern of the politico-legal attempts for legalization of private police was the question of bank robberies, which proliferated in the wake of the increasing militancy of organized struggle. The failure of those draft laws did not prevent the actual practices of utilization of private policemen in especially banks and other *strategically important* public and private institutions.

The Bank Teams were made responsible for the security of the banks and mainly consisted of the retired personnel of state security institutions like the police organization, the army and the intelligence services. As part of their profession, they had the right to carry and use guns. The practices of use of force were made "legitimate" under the discourse of self-defence of their persons or the institutions they are working for (Yardımcı, 2009: 229). The absence of legal framework for the Bank Teams did not mean that they were totally outside the state sphere. To the contrary, the organization and operation of Bank Teams were determined in tandem with the public police forces. That

is, from the very beginning, there has been a peculiar, informal and ambiguous relationship established between public police and private forms of policing in Turkey. Within the context of the organization of paramilitary right-wing groups during the 1970s, this particular phenomenon becomes much more significant especially in terms of containing the radicalism of organized class struggle. Güngör makes the following assertion with regard to this particular point:

> In our country till 1981, police forces were utilized in private security services in line with *the desires of governments and power groups* without being dependent on any legal and regulatory documents (2005: 129; emphasis added).

Available cop-sided and critical studies on the condition of private police in the 1970s do not provide much information on this particular relationship between organization of paramilitary right-wing groups and the Bank Teams. Therefore, more historical research is needed to comprehend this ambiguous relationship. However, the above assertion of Güngör and the practices of private policing within the contested political atmosphere of the 1970s remind the historical examples on the close connection between fascist organizations and private forms of policing. For instance, the countries like Belgium and the Netherlands were forced to enact laws on private provision of security in order to control fascist militias in the 1930s (Button, 2007: 112; ft. 1).

All in all, the above analysis reveals that the absence of a coherent political outlook on the issue did not prevent actual social practices in terms of the formation and proliferation of private practices of policing especially throughout the 1970s. Furthermore, such practices proved that the issue of private security has always referred to an ambiguous sphere, which has been defined and operating between informal and formal relations or private and public forms of power. As will be discussed in the following parts, the ambiguous and contradictory character of private security has intensified in the post-1980 period due to the formal-legal arrangements and informal sets of relationships. In fact, the intensification of this particular facet of private security has been functional in *resolving* the contestation in the state sphere and

constituting the private security as an institutionalized sector in the post-2004 period.

4.3. *DE FACTO* CONSTITUTION OF THE PRIVATE SECURITY SECTOR IN THE PRE-2004 PERIOD

The post-1980 period has brought radical transformations in the fabric of social relations of production in the wake of the global assault of neoliberalism. One of the most important, albeit scholarly neglected, aspects of this transformation has been the transformation of the coercive state apparatuses and the forms of policing. More particularly, the issue of privatization of security has been one of the most novel and contradictory facets of this general transformation. The present part of the chapter concentrates on this phenomenon with a quest to locate it within the context of neoliberal restructuring of the capitalist state in Turkey. While carrying out such an analysis, it will try to pay particular attention to the contradictory transformation moves both in terms of the institutional restructuring of the state and the concrete social practices, which have been intertwined in a quite ambiguous and contradictory manner. This whole story will be narrated with reference to the fundamental dilemma between social legitimacy and social control to make sense of the contradictory character of the state restructuring in Turkey.

Within this context, the below discussion will firstly analyze the peculiar form of policing as established with the law no. 2495 in 1981. It will be shown that the law established private police peculiarly in the sense that it was defined, organized and made operational with an explicit *public* bias. This is the first aspect of the general trend of privatization of security in Turkey. The other aspect, as will be dealt with in the second sub-section, is concerned with the processes of incorporation of the sphere of security into the capital accumulation processes through unlawful, unrestrained and arbitrary practices

of social actors as well as state institutions, which were defined within the context of the first phase of the neoliberal social transformations. The analysis of this process provides important insights into the contradictory mechanisms and rationalities of the transformation of the capitalist state in the era of neoliberal globalization. As the closing discussion of the section will underline, the entire process has enabled the capitalist state to reproduce itself in an ever-coercive and capable manner to police the social body on daily basis. However, the very same process has resulted in the fact that the alleged impartiality of the capitalist state has become even more contested and contradictory claim to be materially and discursively defended and reproduced.

4.3.1. A New Form of Policing Constituted: *Private* Police with a *Public* Bias

The politico-legal attempts for providing the basis for private police gained momentum in the post-1980 period with the particular effect of the *coup d'etat* of September 12, 1980. The coup was *functional* in terms of not only suppressing the social discontent which had arisen especially with the organized opposition and struggle of the left throughout the 1970s. It also meant a *functional* intervention in resolving the clashing viewpoints within the state sphere itself and thereby enacting a particular law, which established the private police as a novel form of policing defined and empowered in line with the public police. Therefore, the concerns over the question of legitimacy, which had been consistently raised in the parliamentary debates throughout the 1970s, were swept away with the direct order of the MGK on the enactment of the law on private security. This particular point demonstrates the constitutive role of coercive intervention in the processes of formation of a new order (see Bonefeld, 2006). However, this new *order* with regard to transformation of the forms of policing was not established without the contradictions of its social constitution.

The Law on Ensuring the Security and Safety of Some Institutions and Organizations (*Bazı Kurum ve Kuruluşların Korunması ve Güvenliklerinin Sağlanması Hakkında* Kanun) was enacted with the direct order of the MGK in 1981. Numbered as 2495, the law was particularly important in creating the basis for a peculiar form of policing, which is categorized in the literature of the "police sciences" as the private police (*özel kolluk*) (Bal, 2004; Gülcü, 2002a; 2002b). Such a conception is also shared by more critical literature on the issue (Arap, 2009a: 606, ft. 12; Atılgan, 2009: 263; Haspolat, 2005/2006: 68**)**. A closer analysis of the law would be helpful to make sense of this peculiar form of policing and to locate it within the more general context of privatization of security, which has been determined in the process of first phase of neoliberal restructuring of the capitalist state in the post-1980 period.

First of all, the law no. 2495 opened the way to the establishment of private security organizations – PSOs (*özel güvenlik teşkilatı*) within the organizational structures of the definite public and private institutions and organizations (arts. 3 and 8). The places of duty of the PSOs were limited to the institutions within which they were founded and operating (art. 11). The article 1 of the law initially provided quite ambiguous definition for these places by stating that the PSOs shall be established in:

> [t]he public or private institutions and organizations, which provide important contribution to the national economy and the war-making power of the state; whose partial or total destruction, damage and non-operation even for a short period of time will cause negative consequences for national security, national economy or social life...

It was a peculiarly novel form of policing which did not fall outside the policing structure of the state, but was constituted as a new element inserted into that structure. The law defined the PSO "as a *private police force*, which is responsible within the framework of this Law for ensuring the security and safety of those institutions to which they belong, and whose powers are limited to what is framed in this Law" (art. 8; emphasis added). By means of this clause, the PSO is legally founded as an extension of the public police forces operating in close relation to other forms of policing existing within the

structure of the internal security apparatuses like the public police and the gendarmerie. The powers and mandate of them as established with the law do strengthen the argument that they were empowered with the authorities and powers of the public police. In the article 9 of the law, it is stated that the PSOs are responsible for:

- securing the institution against all sorts of threat, danger and transgression like sabotage, fire, burglary, robbery, plunder and destruction, prevention of the operation of workplace,
- immediately informing the public police forces about the committed and ongoing crimes in their places of duty, together with apprehending and holding the alleged criminals till the public police forces arrive,
- preserving the evidences,
- entering into the service of public police forces and helping them from the moment of their arrival,
- taking other precautions required by the protection and security services,
- helping the Civilian Defense Organization (*Sivil Savunma Teşkilatı*) in performing their duties.

As can be inferred from these clauses, the PSO was defined as a supplementary form of policing that shall work in close cooperation with and in the service of the public police forces when deemed necessary. Such a close relationship between the two was further strengthened in the other articles of the law, which deal with the special circumstances such as the incidents of strike and lock-out and the state of siege. For instance, the article 27 of the law defined the PSO as a peculiar form of policing which might be tasked with strike-breaking for the purpose of containing working class militancy. It explicitly states that:

> In the times of strike and lock-out, the personnel of the Private Security Organization shall enter into the service of the general police chief which would be nominated by the provincial governor, and perform the assigned duties within their institutions for the purpose of assisting the general public police (art. 27).

In fact, there were numerous cases within which the private police intervened into the labour-capital relations in the workplace on behalf of the capital to suppress the organized activities of the working class (see Şafak, 2000). Moreover, the article 30 of the law establishes that in the times of state of emergency, the PSOs shall enter into the service of the commander of the state of siege. These particular articles mean nothing more than the simple fact that the private police could become just another form of surveillance and control mechanism over the labour as an assisting unit to the public police forces.

While performing their duties under any circumstances, the personnel of the PSOs were empowered to carry and use guns when it is deemed necessary to do so (art. 10). Furthermore, those employed in the PSOs were regarded as public servants with regard to the implementation of the Turkish Penal Code (*Türk Ceza Kanunu - TCK*). Therefore, the crimes committed against these personnel during or in relation to their duties were regarded as the crimes committed against the public servants (art. 13). While the aforementioned clauses empowered the PSO as a peculiar form of policing having direct relation with the public police, the other articles of the law concerning the issues of supervision and control of the PSOs were designed to strengthen the public control over the issue at hand. The law set forth a centralized and rigid supervision structure for the establishment and operation of the PSOs. This is most explicitly evident in the article 3 of the law, which maintained that the establishment of PSOs was conditional upon the permission of the CoM, which was given on the basis of the demands of the institution in question and the advisory report of the Ministry of Interior. Furthermore, such a strict and centralized supervision structure can also be observed in terms of the structural organization and operational practices of the PSOs. A peculiar supervision structure was formed on the basis of the article 7 of the law out of various state institutions including, but not limited to, the provincial governor or its deputy governor, representative from garrison command, provincial prosecutor, provincial gendarmerie regiment commander and provincial chief constable. Called as Private Security Organization Provincial Coordination Committee (*Özel Güvenlik Teşkilatı İl Koordinasyon Kurulu*), this entity was responsible

for monitoring the implementation of the law no. 2495, ensuring the coordination at the provincial level and identifying the security precautions in line with the qualifications of the institution in question (art. 7). The decisions taken in this Committee were informative for the Ministry of Interior to consider the establishment and operational powers of the PSOs in the institution under supervision. This entire review process, the law establishes, is concluded with the advisory report prepared by the Ministry of Interior and submitted to the CoM for final decision on the establishment of and specific powers and surveillance services performed by the PSOs in the public or private institutions in question. Additionally, with the amendments to the law made in 1992, the public supervisory structure over the PSOs was strengthened in a substantial manner. The amended article 6 of the law empowered the Ministry of Interior to exercise constant supervision over the PSOs and to decide whether or not to decrease the number of personnel employed and guns used in the PSOs.

The law no. 2495 was initially designed to respond to the security problems of public institutions and *strategically important* private institutions and organizations with a peculiarly novel form of policing. Thence, its scope had been limited to a number of public institutions and private banks till the 1990s. However, the law in question was amended in 1992 and 1995, and the scope of the aforementioned definition was greatly extended to virtually include each and every aspect of the social life. With the law no. 3832, which was enacted on 02.07.1992, the places where the PSOs would be established were redefined and more civilian institutions and organizations were incorporated into the mandate of the law. The amended article 2 explicitly states that:

> The places whose security and safety shall be ensured in accordance with the provisions of this Law are as follows: dams, power plants, oil refineries, energy transmission lines, fuel oil transportation, storage and loading centres, and similar places, airfields and airports which are open to public traffic and operated by the State, historical artefacts, ruins, sites, open-air and closed museums, industrial and commercial and touristic establishments, which carry the features as indicated in the article 1, [and] which provide important contribution to the

> national education and economy and the war-making power of the state.

The law no. 4102 brought second set of amendments to the law on the PSOs. Enacted in 1995, this amendment was particularly important because it substantially extended the scope of the law to include virtually all private commercial and touristic areas. The amended article 2 of the law explicitly stated that "in grand bazaar (*kapalıçarşı*), and similar commercial and touristic places in Istanbul and other cities, private security organizations can be established within the provision of this Law". It was also established with this amendment that the administration of the PSOs in such places was to be exercised with a particular body of Board of Management, which was composed of representatives from provincial governorship, police department, municipality and the business or commercial centres. This particular clause is significant in terms of the transformation of the processes of social control and the actors involved. As can be inferred, the law opens the way to institutional cooperation between the public institutions and private enterprises for policing everyday life. In other words, policing is defined in a peculiar way to ensure *public-private partnerships* in the processes of social control. This has been indeed a gradual transformation, which has taken its most *advanced* and organized form with the developments in the post-2004 period, on which a comprehensive discussion will be carried out in the following parts. Besides this particular point, the same amendment also established that those private institutions, commercial or industrial places shall have their own budget to bear all sorts of costs with regard to the establishment and operation of the PSOs (art. 2).

As a result of these amendments, the security of various public and private entities like public institutions, private banks, universities, hospitals, shopping centres, business districts and many other areas began to be ensured by means of this peculiar form of private police. As can be inferred from this speedy process of proliferation, a new politico-legal actor was defined and empowered with the powers of the public police in managing the contradictions of everyday life. The central concern of the state in this process was to use "the

public resources more efficiently" (Aydın, 2002: 129) in managing the ever increasing complexity of the social relations and deepening social struggles and contradictions. In this very process of policing everyday life through peculiar forms of social control, the public police was going under a substantial transformation as well. As Biriz Berksoy comprehensively discusses in her important studies (see 2007a; 2007b; 2010), the public police has reformed itself in a more professional and coercive manner and begun to concentrate all its energy and resources to suppress those organized political groups like the radical left and the Kurdish movement, which were perceived to pose a direct challenge to the established order. Moreover, the process of transformation of urban space in line with the neoliberal accumulation regime has been managed only though suppression and thereby "gentrification" of the suburbs (see Gönen, 2008).

Within the context of all these transformations, by the mid-1990s, there seemed to emerge a kind of a "division of labour" between "public" and "private" forms of policing in terms of the processes of social control (see Bedirhanoğlu, 2009; Beste, 2004; South, 1997). However, the notion of *division of labour* here does not denote to ontologically constituted relations of externality between private forms of policing and the public police. That is, these seemingly different forms of policing cannot be understood with reference to externally constituted relationship between public and private forms of power. To the extent that this very distinction between *the public* and *the private* is a contested question continuously redefined in and through class struggle within the capitalist social relations of production, the rise of private security refers to a much more challenging relationship between the two. As will be discussed in the following parts in a more detailed manner, this relationship is constituted in a quite ambiguous way through the politico-legal acts and everyday practices. Therefore, the question of private security refers to quite complex and contradictory practices of social control that cannot be understood with reference to the traditional conception of public-private distinction. This is the exact reason for why the capitalist state reproduces itself in a more strong and

authoritarian manner through private practices of policing while it experiences a major crisis in its claim of impartiality or class neutrality.

This particularly important aspect of the transformation of policing practices becomes much more complex and contradictory when one considers that the phenomenon of privatization includes the subcontracting processes of security through the proliferation of private security companies from the late 1980s onwards. This second aspect did play constitutive, albeit contradictory, roles in establishing the private security as a sector towards 2004 and in transforming the state in a substantial manner. Therefore, it is important to make sense of this second facet before developing a comprehensive discussion on this very question of *division of labour*, which is a topic substantively and extensively elaborated on in the next part of the chapter.

4.3.2. The Contradictory Formation of the Private Security Sector in the Pre-2004 Period

The liberal political and theoretical outlooks have repeatedly argued that the market relations refer to a natural state of affairs, which is formed and transformed in accordance with its internal-eternal laws of motion. According to this perception, the state is nothing more than an external actor intervening into the smoothly functioning processes of the self-regulating market. This is a well known story, which has been promoted to justify the neoliberal transformation of the state-society relations in the last 30 years. However, the critical analysis of the concrete historical examples has proven that there is no market relation to be found independent from the political and social struggles and contradictions. Therefore, as being the material condensation and institutional crystallization of the social struggles, the state cannot be abstracted from the very process of market relations. In fact, a critical analysis of the privatization of security in the post-1980 period would provide important clues about the ways through which neoliberal markets are formed and proliferated and thereby the capitalist state is restructured. As the below

discussion will reveal, the state itself has been at the centre of this particular phenomenon through both formal and informal practices, which ultimately unfolded itself as a central challenge to the reproduction of the alleged impartiality of the capitalist state. As always underlined, this very presence of the state in the process of privatization of security was determined by the central dilemma between intensifying social control and ensuring social legitimacy in the wake of the increasing social struggles and contradictions in the era of neoliberalism.

As discussed in the previous part, the law no. 2495 established that the PSOs would be established within the juridical institutional or organizational structures of public or private institutions. The wage relation in the PSOs was determined within this framework and those employed in these organizations receive their salaries from the institutions themselves. In fact, they were regarded as public servants having the same rights and duties of those working in public institutions. The wage relation operated under the supervision and guarantee of the public power. It was so that even the budget of the PSOs established in business districts or other industrial, commercial and touristic centres was under the supervision of the state. The sub-clause of the article 2, which was added with the 1995 amendment, explicitly stated that:

> All sorts of expenditures of the above mentioned security organizations are beared by the owners of business in shopping centres or places … The payment is separately made upon the decision of existing board of management and the approval of the provincial governor. *This money belonging to the private security organizations has the force of State currency* and with regard to its collection the provisions of the Law on Collection Procedure of Assets numbered as 6183 (*6183 Sayılı Amme Alacaklarının Tahsil Usulü Hakkında Kanun*) are applied (emphasis added).

This clause too provides an important support to the above raised argument that the law no. 2495 defined the PSO not as an isolated or external actor. To the contrary, it was constituted as a *private* form of policing, but structured and made operational with an overt *public* bias. However, the law did not provide a clear basis for the question of how and under what conditions such personnel would be incorporated as the private security personnel into the institutions.

This meant a particularly significant legal vacuum, which in one way or another opened the way to the proliferation of the private companies selling security services to the individuals and institutions. There was no legal provision with regard to establishment and operation of the private security companies (PSC), nor was there any legal ground justifying the practices of coercion and surveillance performed by the private security personnel in the 1990s. Initially operating as cleaning companies, many companies gradually transformed their services into the security field to benefit from this rapidly growing market (Kuyaksil and Akçay, 2005: 10; Ünal, 2000: 7).

In fact, the amendments in 1992 and 1995, as discussed above, were the state's response to the growing sector of private security. However, as Şeneken points out, the giant factories and business and commercial centres resort to employ the private security guards from the PSCs either because they fall outside the mandate of the law no. 2495, or because they saw it much more expansive to establish PSOs within their organizational structures. Therefore, they exploited the legal vacuum in this regard and resort to subcontracting companies to meet their demands for security of their property (Şeneken, 2001: 50).

This process reveals the fact that the process of privatization of security was facilitated though the illegal and uncontrolled practices through which the area of security was incorporated into the processes of capital accumulation. The central form of wage relation in this process was established in the form of subcontracting, which meant ever increased exploitation for the workers in the sector. The relations of domination and exploitation in the private security sector can be understood with reference to the observation of Emin Pazaroğlu below, the manager of a private security firm called as Pronet. Pazaroğlu states that:

> Especially in the 1990s … t*he business of private security in Turkey was conducted like human trafficking*. Without any additional qualifications, those performed their military duty as a commando were accepted to the security firms; after one-week, 10-day training, these people were empowered as security personnel guarding the entrance doors of many buildings. What happened then? It is absurd to demand security service from a person, who

> you do not provide proper training, you employ for 15 hours per day, you pay very little salary, you deprive social rights. There occurred either problems with the visitors or undesired security gaps (Cited in Gökçe ve Morgül, 2007: 67; emphasis added).

Furthermore, in this process, the practice of using security guards as "footservants" (*ayakçı*) established with the intensification of subcontracting relations. Even though speaking from a cop-sided perspective, the below descriptive analysis of Çağlar Ünal provides important insights to comprehend the intensity of the exploitative relations in the private security sector throughout the 1990s and the early 2000s:

> There is a harsh truth in Turkey: that the unemployment caused by the economic problems provides the solution for the personnel demand in the security sector. The cheap labour force has whetted the companies' appetite; after gardening and cleaning jobs, the security guards have emerged. In short, the million-dollar buildings have been protected by the people earning minimum wages. The subcontracting companies do not provide investment (training) because these people might go away in the near feature as they earn very slight amount of money … The security guards look after the car parking, provide legwork and wash the cars; unfortunately this is the reality of Turkey (2000: 11).

The intensity of the exploitative relations has been so decisive characteristic of the private security sector that being private security guard is regarded as synonymous with being "modern day slaves", even in the cop-sided literature (Ocak, 2005: 75). Such practices, however, were not limited to the so called private sphere of corporate institutions and organizations. The public institutions themselves did resort to private security guards, who were made responsible for anything the chief of the department wished. As Gülcü points out, the private security personnel were employed under the most disadvantaged working conditions in terms of physical and financial matters (2002a).

There is no clear-cut statistical data about the number of private security guards employed by the PSCs throughout the 1990s. The statistical data below are drawn from different sources to describe the complexity and size of the sector of private security in the early 2000s. While analyzing them, it is quite

important to keep in mind that there is no available data which makes a clear distinction between the private security personnel of PSOs which were established under the law no. 2495, and the number of private security guards employed by PSCs which operated on no legal ground, but were established due to the existence of legal vacuum regarding the issue.

Table 1: The Numbers of PSOs and the Personnel Employed

Year	The ≠ of PSOs (Total)	The ≠ of Private Security Personnel (Total)
1993	8.564	48.086
January 2000	11.847	103.669
December 2000	11.937	104.924
January 2001	12.289	106.208
January 2004	11.741	106.940

Source: Haspolat (2010: 241).

The Table 1 is reproduced from the Ph.D. thesis of Evren Haspolat, who confirms that neither the relevant public institutions nor the literature on the issue have comprehensive and reliable statistical data on the issue of private security in the pre-2004 period. The above data is gathered from different secondary sources and gives at least some clues about the size of private security in the 1990s and the early 2000s. However, it is important to make the following reservation on this table: The total numbers *might* include both forms of private security, i.e. the private security personnel of the PSOs which were established under the law no. 2495, and the number of private security guards employed by PSCs which operated without any legal basis. Therefore, it is not clear what percentage of these total numbers belonged to those private security guards employed by the subcontracting companies. Some sources provide speculative information and argue that by the early 2000s the number of private

security guards was over 50.000 (Karaman ve Seyhan, 2001: 155, 156). Another source in this line is the 2003 annual report of Confederation of European Security Services – CoESS, a European umbrella organization for national security services among the European Union (EU) member states. CoESS reports that by 2002 there were 175.000 private security guards in Turkey. Within this total number, 145.000 had the right to carry gun and the remaining 30.000 did not have (CoESS, 2003: 34). This report too does not provide explicit information about the above raised question.

The ambiguity with regard to the size of private security sector in the pre-2004 period can better be understood with reference to the Table 2 below, which is reproduced from the Petrol-İş Annals. It clearly demonstrates that throughout the 1990s, the number of private security personnel gradually increased both in the public and private sectors. However, the percentage of private security personnel employed by the public institutions is 3 or 4 times more than the percentage of private security personnel employed in the private industry. On the basis of this table, however, a few critical questions should be raised in order to underline the contradictory phenomenon at stake.

First and foremost, as discussed above, this table too *might* include both forms of private security, i.e. the private police and the private security guards. On the other hand, there is a particularly significant phenomenon of "fraudulent employment" (*hileli istihdam*) in the PSOs established in many public institutions throughout the 1990s and the early 2000s (Gülcü, 2002a). The phenomenon of "fraudulent employment" is closely linked to the austerity measures in the public sector in the process of neoliberal restructuring of the capitalist state. As the public institutions have become more and more unable to recruit new personnel, they utilized the private security guards as a chance to close the gap in their personnel employment. It was so widespread throughout the 1990s and the early 2000s that the Ministry of Interior felt the need to issue a series of circular letters to address the problem of over-employment in the public institutions through the PSOs. The circular letter, numbered as 2808 (0222) and issued in October 2000, stated that the austerity measures in terms

of the personnel employment in some public institutions and organizations and in State Economic Enterprises (SEEs – *Kamu İktisadi Teşebbüsleri*) were not complied with. This caused the problem of over-employment of private security personnel in public institutions, and, the Ministry urged, such practices had to be stopped as soon as possible (Gülcü, 2002b).

Table 2: The Proportion of the Number of Private Security Personnel over the Total Number of Workers (According to Years and Sectors)

Sector	1990	1991	1992	1993-94	1995-96	1997-99
TOTAL %	1.9	1	3	5.6	5.1	7.3
Petroleum %	5.1	2	5	10	7.8	13.9
Chemistry %	0.1	0.2	1.3	3.1	2.6	3.3
Rubber %	-	0.6	2.5	2.7	1.9	2.4
PUBLIC %	2.7	1.8	3.7	6.5	6.7	9.8
Petroleum %	5.6	2	5.2	10.4	7.9	14.1
Chemistry %	0.2	1	1.2	3.4	3.5	4.2
Rubber %	-	-	3.5	4	4.1	-
PRIVATE %	0.3	0.2	1.5	3.3	2.2	2.6
Petroleum %	2.2	1.4	2.7	7.4	5.7	8.2
Chemistry %	-	-	1.5	2.7	2.1	2.3
Rubber %	-	1	1.2	2	1.2	2.4

Source: Gülcü (2002a)

While analyzing this complex and contradictory transformation on its own right, it is important to underline the significant fact that it was not a process externally related to the politico-legal sphere, i.e. the state. As already underlined, such a perception is continuously reproduced the cop-sided

literature. Therefore, it is of utmost importance to make sense of the mediations through which the capitalist state has been present in the first phase of privatization of security in Turkey. By so doing, it will become clearer that the fragile relationship, which has existed between the concerns over impartiality and the quests for intensification of social control, has become even more contested because of the contradictory amalgamation of the public and private forms of power in the process of privatization of security.

The first and foremost form of the state's existence in the transformation underway has been determined with the simple fact that the state itself was the principal employer of the private security personnel and the guards in the sector. The state institutions not only employed personnel of PSOs established under the law no. 2495 as public servants, but also resorted to subcontracting companies to employ security guards. This means that the state has not been outside the process of neoliberal transformation of the sphere of security through the processes of subcontracting. To the contrary, it has been at the centre of the subcontracting phenomenon by either encouraging or actively utilizing it (Gülcü, 2002a). As discussed above, such a resort to subcontracting companies was determined within the context of neoliberal austerity measures that the public institutions were under. Because the establishment and operation of the PSOs in accordance with the law no. 2495 were perceived as rather complex, time-consuming, bureaucratically inefficient and expensive, various public institutions began to receive security services from subcontracting firms. Therefore, even though there was no legal basis for such practices, many public hospitals, universities and airports did resort to subcontracting firms to employ private security guards working at just subsistence level.

The phenomenon of subcontracting as the central form of wage relation in the neoliberal era was a key element in the process of opening the security into the capital accumulation process in an illegal way. The subcontracting process of the municipal police forces provides one of the most evident examples to the

transformation in question (see Aslan, 2007). The following observations of a cop-sided perspective provide important insights in this regard:

> On the one hand, the private security organizations [that were founded on the basis of the law no. 2495] were positioned within the State institutions, in the service for the public. On the other hand, the illegal ways and methods were utilized and the legally ambiguous companies providing the private security services were established due to either the existence of legal gap[s] or the shenanigan of the shrewd people. The employers employ personnel with the name of security officer but under other departments, in order to suppress the labour activities. Besides, because the municipal police does not have the right to carry guns, those private security personnel empowered to carry and use guns are employed by the municipal authorities as if they were the municipal police or they were employed in tandem with the municipal police (Şafak, 2000: 4).

The second facet of the state's presence in the process of privatization of security was determined by the fact that the sector from the beginning was established and operated in close relationship with the particularistic interests of public officials and capital groups. That is to say, the sector was established and made operational in and through the informal networks among the business groups, police officers, military personnel and other retired public servants. For instance, Gülcü reports that by 2002, the 44.1% of the retired personnel of the police organization involved in extra work and 7.9 % of this number worked in the private security sector in different positions and responsibilities (Gülcü, 2002b)[12]. In fact, the law no. 2495 had already established the conditions for employment in the PSOs, and established that those previously worked in the security services were preferably chosen as personnel for the PSOs (art. 16). This was explicit manifestation of the encouragement of ex-police officers, military personnel and the like to enter into and work in the private security sector.[13]

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[12] While providing this statistical data gathered by the General Directorate of Security, Department of Research, Planning and Coordination (APK), Gülcü warns that the methodological aspects of the study were problematic. However, it still provides some clues about the involvement of ex-police officers in the private security sector.

[13] This particular issue is one of the constitutive characters for not only the private security sector, but also the ambiguous relationship between the state and the sector. It will be dealt with in a more detailed way in the last part of the chapter.

Such informal relationships caused the public resources to be used for and public personnel to be employed in the processes of ensuring the security and safety of private places like the business districts and commercial and industrial establishments. In fact, such practices were so widespread that Saadettin Tantan, the Minister of Interior at the time, issued a circular letter entitled as "The Returning of the Police Personnel to their Principal Duties" to address the issue in question. It is important to reproduce the news report by *Yeni Şafak* on 09.01.2001 in order to make sense of the issue at the hand:

> The Minister of Interior Sadettin Tantan urged the institutions and organizations to establish private security organizations within their own organizational structures. Tantan issued a circular note with the subject of "The Returning of the Police Personnel to their Principal Duties" to headquarters, governorships of 81 provinces, all ministries and Gendarmerie General Command. It is stated in the circular note that in some public and private institutions and organizations, which are or are not incorporated into the mandate of the law no. 2495, the personnel of police organization are employed for the security of entrance and surroundings. The circular note urged the private institutions and organizations to employ their own personnel for the security services (Cited in Karaman, 2004: 133).

The third form of the state's involvement into the contradictory process of privatization of security can be observed in governmental documents issued throughout the 1990s and the early 2000s. Different state institutions in different time periods issued various regulatory documents and announcements in order to manage the contradictory practices occurring with regard to PSCs and the private security guards employed by them. These documents explicitly demonstrates that different state institutions took pragmatic positions with regard to the private security in the times of increasing socio-political crisis, and encouraged the establishment and proliferation of PSCs as assisting units to the public police forces to deal with the issues of terrorist attacks, property crimes and everyday violence. In other occasions, however, the state institutions tried to limit the proliferation and operation of these companies on the grounds that they pose a direct challenge to the impartial reproduction of the state power in the social body. This very dilemma between intensifying

social control and ensuring impartiality has characterized the contradictory formation of private security sector in the pre-2004 period. It also has determined the state's contradictory presence in the process underway. Thence, a closer examination of the conflicting positions temporarily taken by different state institutions would be helpful to better make sense of the issue at hand. Such analysis will also provide important insights to the contradictory mechanisms and contested rationalities of neoliberal restructuring of the state, as far as the sphere of private security is concerned.

Throughout the 1990s, different state institutions issued various circular letters and notices which addressed the *de facto* proliferation and operation of PSCs which were founded without any legal basis. In 1994, the Ministry of Interior issued a circular letter regarding the advertisement of a PSC named as GURUP-4. The company was announcing through newspaper advertisement that it was beginning to provide security services to individuals and institutions. The Ministry examined the operational activities of the company, but could not identify any illegal practice or implementation. However, it was also identified that there was no legal basis for such companies to provide security services to the third parties. Elaborating on this incident, Salih Güngör, who is a retired police chief and currently working for the security company entitled as Turkuaz Güvenlik, argues that:

> As in the cases of radio and television, hundreds of [s]ecurity companies were established in the field of [private security]. Because of the absence of legal arrangement, these companies employed untrained, cheap … labour force, and made the system as the last job opportunity for the unemployed. In conjunction with proliferation of mafias, a set of powers (body search, asking for identification … etc), which were granted to [the personnel of private security organizations] under the law no. 2495, were exercised by [the security guards] of the private security companies. The *de jure* situation came after the *de facto* situation in this field, as happened in every [social] fields as well (2005: 130).

On 07.02.1995, another circular note numbered as 41068 was issued by the Ministry of Interior. The note expressed the rising concerns about the PSCs, which operated without any supervision and made the employees wear police-

like uniforms. The Ministry then urged such companies to stop their operation immediately (Şeneken, 2001: 51). However, only two months later, the Ministry sent another circular letter to the provincial governorships, which provided *de facto* permission for the provision of security services by the commercial companies (ibid). It is quite ironic to observe the contradictory position taken by the Ministry within such a short period of time. Therefore, it is significant to have a look at the provisions of the circular letter, which:

- gave security and surveillance authorization to persons, companies and institutions,
- established that those employed in such companies shall wear special identifiable uniforms and provide security and protection services. Each company shall identify special uniforms for themselves and these uniforms could contain special marks. However, the colour and marks of the uniforms and hats shall not resemble those of the public police,
- urged that the security company employees shall not carry under any circumstances gun, nightstick, handlock, which belong to public institutions dealing with security,
- urged that such employees shall not enter into place of duty of the public and private police (Cited in Şeneken, 2001: 51).

With these two circular letters, the contradiction that the Ministry of Interior reproduces can be understood. While the first regulatory document tried to ban all activities of PSCs, the second one tried to take the already existing practices under control. As can be inferred from here, with such regulatory documents the state spent particular effort to make a clear distinction between public and private police on the one hand and security personnel employed by the PSCs on the other. Furthermore, such regulatory documents demonstrated that the state tried to take the practices of coercion employed by the private security personnel under control. This is because of the fact that by the mid-1990s, the question of powers and authorities of this form of policing became an important issue to be addressed. They were intervening into the events on the basis of self-defence, whose frontiers were so ambiguous that there occurred various cases which the private security personnel employed disproportionate

force (Çetin, 2007: 19, 20). With these regulatory documents, the state gave only the power of surveillance to the security guards, and in case of any incidents they were to inform the public police as soon as possible without intervening into the event.

Throughout the 1990s, the applications of PSCs for acquiring the legal permission to provide security services to the third parties were rejected by the Department of Legal Consultancy of the Ministry of Interior. Mustafa Bal, who was the 1st class police chief in the time of writing his article, makes a careful analysis of this issue and argues that the establishment and operation of the PSCs were contrary to the law no 2495. He cites the response of the Department of Legal Consultancy of the Ministry of Interior to a request raised by a private company for providing such services. It is important to reproduce the response of the Department to make sense of the position taken by the Ministry of Interior at the time:

> ... the company in question is neither qualifying the features mentioned in the article 1 of the Law [no. 2495], nor is it a security organization attached to an institution or organization qualifying such features. Its purpose is to provide various security services to individuals and institutions who feel the need of private security for various reasons. However, it is not possible for such services to be provided within the framework of the Law no. 2495.
>
> *As already known, enforcement of one's right without resorting to juridical procedure is forbidden and the use of force belongs only to the state through security forces, except for the self-defence. The contrary situation will qualify as crime, and it will cause quite serious consequences to give, in accordance with the Law of Police Powers (Polis Vazife ve Salahiyetleri Kanunu), the power to use guns to some individuals and institutions and to make them as private police through the instrumentality of the article 10 of the law no. 2495.*
>
> Consequently, it is not possible to regard this applicant company within the framework of the Law no. 2495… (Cited in Bal, no date; emphasis added).[14]

[14] Neither the date of the article nor the date of the response given by the Department of Legal Consultancy of the Ministry of Interior was provided in the article. However, it is the assessment of the author of the thesis that the response was before the enactment of the law of 5188 in 2004.

Especially in the second paragraph, the Ministry took a radical position against the subcontracting processes of private security, which resembles the ones taken by the TGNA Commission of Justice throughout the 1970s. It clearly demonstrates that the use of force was claimed to be an exclusive domain of the state, except the issue of self-defence. This position is in fundamental odds with the previously discussed circular note issued by the Ministry in mid-1990s. What is explicitly manifested here is the degree of institutional contradiction which was continuously reproduced within the state sphere in the pre-2004 period.

On the other hand, the contradictory state practices with regard to privatization of security were to be incorporated into a more coherent institutional framework with the two additional regulatory documents that were issued by Governorship of Istanbul and the Ministry of Interior in 1999. These regulatory documents, however, meant one step further in the intensification of subcontracting processes as the principal form of wage relation in the private security sector. With the Security Notice numbered as 1999/1 and issued on 15.03.1999, the Governorship of Istanbul drew attention to the increasing number of social events in the aftermath of the apprehension of Abdullah Öcalan. It stated that the police organization of the state was mobilized to cope with these social events, however;

> …in a city like Istanbul, which is located on a vast piece of land, which suffers from unplanned urbanization due to internal migration, [and] whose population is rapidly growing, the insufficiency caused by the inability of security forces to be always present in every places prepares the ground for terrorist actions, which result in loss of life and property.

The discourse utilized here was functional in terms of the legitimation of alternative forms of policing and surveillance mechanisms. As a matter of fact, the Security Notice of the Governorship established that those private institutions and organizations that fall outside the mandate of the law no. 2495 should take the required security and safety measures by themselves. This means that the employment of private security guards and receiving security services from private companies were made possible without the need to

establish PSOs in accordance with the provisions of the law no. 2495. Thence, the places like shopping centres, business districts, factories, car parking areas, petrol stations, bus stations, theatres, cinemas, offices of political parties and many other public, semi-public and private places were granted the permission to resort to private security companies to ensure their security and safety.

On 25.11.1999, the Ministry of Interior issued another circular letter to address the issue of uncontrolled proliferation and operation of PSCs and the security guards employed. Numbered as 4330, the circular letter identified the nature of the problem and tried to draw stricter framework for the operation of the PSCs. The below points are significant to make sense of the contradiction that the Ministry tried to resolve:

- Some institutions, which can be regarded as falling into the mandate of the law numbered as 2495, avoid the procedural rules as set forth by the law and choose the way to meet their needs for private security through security personnel employed by the private security companies which have no legal basis.

- It has been observed that these companies make their employees wear special uniforms and apparatuses which belong to public security institutions and are protected under law. It has been also observed that even though they have no legal powers, these security personnel perform such powers as body searching, car trunk searching, handbag searching, asking for identification cards, and apprehending. These powers belong to public and private police and these private security guards employed by private security companies and performing these powers intervene illegally into the rights and freedoms of the persons.

- These security guards are perceived as performing legally mandated duty, and as they wear similar uniforms with the public police, they are thought of as State's legal forces. This causes misunderstandings and negative interpretations before the public opinion.

- *Because there is no legal arrangement preventing the establishment of private security companies and their provision of such services, the private persons, real persons and legal entities shall benefit from guards of security companies for the purposes of taking solely physical security measures within their own institutions or in such activities as meeting, conference, concert*

and sport matches, and for the purpose of receiving surveillance services within their institutions and their appendages.

- These guards cannot perform under any circumstances the powers of the personnel of the Private Security Organizations as established with the law no. 2495, and the public and private police whose powers and responsibilities are established with the laws.

- These guards cannot wear the uniforms that are used by the public and private police. They cannot carry and use nightstick, handlock and guns.

- In those institutions which can fall under the mandate of the law no. 2495, the private security organizations should be encouraged (Cited in Şeneken, 2001: 52, 53; emphasis added).

In short, the note reflected the interesting position that the state took with regard to the PSCs: because there was no legal restrains prohibiting the establishment and operation of them, these companies can provide security services to third parties such as individuals and private institutions and organizations. Even though there was no legal basis for such a regulatory document, the Ministry did take this contradictory position, which ultimately provided legal status to the PSCs for the first time (Haspolat, 2009).

Apart from the above mentioned regulatory documents, there were a number of governmental attempts to make amendments on the law no. 2495 in order to create the legal basis for the operation of the PSCs throughout the 1990s. The law of 2495 was tried to be comprehensively amended with the draft laws prepared in 1996 and 1999 in the times of Prime Ministers Mesut Yılmaz and Bülent Ecevit respectively. When one examines these draft laws, which were almost the same in terms of the substantive changes proposed, it becomes clear that it was aimed that the law no. 2495 was radically changed so that the operation of PSCs and practices of coercion exercised by the private security guards were recognized and thereby legalized. However, these two draft laws were not enacted in the parliament until the year 2004, and they remained null and void (see Ünal, 2000).

All these regulatory documents and the initiatives for changing the law on a large scale demonstrate the state's effort of managing the contradictions of a

rapidly growing sector, which was being founded and operated on the basis of formal and informal mechanisms and practices of both public and private actors. However, the legal status of PSCs could not be based on a clear ground with these circular letters, directives, announcements until 2004 (Şafak, 2004: 99). With the below analysis, it will be better manifested that the post-2004 period for privatization of security has brought institutionalization to this ambiguous form of policing, which did refer to peculiar amalgamation of contradictory practices on the part of the state as well as the capital.

4.4. THE INSTITUTIONALIZATION OF PRIVATE SECURITY IN THE POST-2004 PERIOD

The hitherto discussion has tried to underline contradictory character of privatization of security within the general context of the first phase of neoliberal transformation of the capitalist state in Turkey. This transformation is determined by a central dilemma between intensification of everyday forms of policing in the wake of the ever-increasing social inequalities and contradictions and restoring social legitimacy in the face of unpopular socio-economic transformations. This dialectical interplay between legitimacy and social control has been the manifestation of the fundamental tension between the class character of the state and its alleged impartiality. This dilemma could not be *resolved* by the state until 2004, the year of the enactment of a particular law on private security (numbered as 5188).

In fact, the timing of the enactment of the law on private security demonstrates a particularly important historical moment in terms of the neoliberal transformation of the capitalist state in Turkey. The institutionalization and legalization of this *de facto* existing sphere was enabled only in the second phase of neoliberalism. What is peculiar to this era has been the constitutionalization and institutionalization of relentless process of neoliberal assault on the public goods and services. Furthermore, this era has ossified the authoritarian restructuring of the capitalist state (see Oğuz, 2009). The

privatization of security has been just another example of institutionalization of an already operating sector constituted in and through the contradictory practices on the part of the state as well as the capital. In this regard, the law no. 5188 can be read as a politico-legal instrument which aimed to contain this uncontrolled sphere and incorporate it into the institutional materiality of the capitalist state.

The following discussion discusses the issues of privatization of security in general and the enactment of the law no. 5188 in 2004 in particular in conjunction with this broad theoretical-historical framework. This part of the chapter will spend a particular effort to make sense of the phenomenon of institutionalization and legalization of private security in Turkey. This analysis will base itself on a series of topical discussions in order to develop a comprehensive critical account of the complex and contradictory issue at hand.

4.4.1. Preparation Process of the Law on Private Security

> *I am the one who enacted this law* [Law no. 5188 on Private Security Services]. I tried very hard and travelled to Ankara for 762 times (Cited in Gürs, 2007/2008: 20; emphasis added).

The statement above belongs to Oryal Ünver, the founding member and the ex-Chairman of the Executive Board of the Organization of Security Services Associations (*Güvenlik Servisleri Organizasyon Birliği Derneği – GUSOD*). It in a way provides a striking summary of the story behind the law no. 5188 on private security. The analysis of the preparation process of the law provides important insights into the mechanisms and rationalities of the institutionalization process of this already constituted and operating sector. Hence, it is important to have a look at the pre-2004 efforts in this line to make sense of the actors and interests groups involved in this process and the peculiar relationship gradually consolidated between the public officials, whether retired or not, and the capital groups in the private security sector. Such an analysis will prove that this entire process was determined by the

transfer of particularistic interests of definite social forces into the universally presented impartial politico-legal framework of the state. Only through such processes, it is argued, could the contradictory transformative moves of the first stage of neoliberalism were incorporated into the so called universal-legal impartiality of the capitalist state.

As discussed in the previous part, throughout the 1990s there were various political and regulatory attempts to contain the ambiguous sphere of private security and create politico-legal basis for the operation of the PSCs. However, none of these documents could provide a comprehensive framework for the sector to operate on a clearly drawn legal basis. In response to these failures, especially from the second half of the 1990s onwards, the capital groups in the sector began to raise their voices to demand particular legal arrangements from the state, which would provide appropriate institutional framework for the operation of the sector. The big capital groups began to get organized to form a kind of a pressure group to initiate lobbying activities in the parliament. Among the others, the Security Industry Businessmen Association (*Güvenlik Endüstrisi Sanayicileri ve İşadamları Derneği - GESIDER*) and GUSOD were the most important employer organizations established in the 1990s. Founded in 1996, GESIDER brought together over 60 companies producing and/or importing electronic and physical security equipments. It has operated in close cooperation with GUSOD, which is the leading organization of the PSCs providing physical security services. In fact, GUSOD deserves particular attention because it is the association which forced the enactment of the law on private security in the parliament.

Founded in 1994, GUSOD has been one of the most active pressure groups in the processes of preparation of draft law on private security, of its enactment in the parliament in 2004 and of the amendments inserted to the law in the post-2004 period. The retired Staff Lieutenant Colonel Oryal Ünver, who was the founding member and the chairman of the executive board of GUSOD from 1995 to 2003, describes its foundation process and aim as in the following:

> In 1994, the existing [private security] companies came together and established GUSOD with the aim of legislating a law on private security ... I was the third director of it. I presided over the organization for seven years, and with my friends we endeavoured very much to legislate the private security law. The law was enacted at the 10th anniversary of our foundation. [The law no.] 5188 ... is the biggest achievement of GUSOD in this country (Cited in Gürs, 2007/2008: 18).

Since its foundation, GUSOD represents the biggest capital groups in the sector. For instance, by early 2002, 18 companies were affiliated with GUSOD and they employed 19.500 security guards representing the 52% of the private security sector (CoESS, 2003: 34). It is currently formed out of 30 institutional members, 25 individual members and 10 voluntary members. In total, it represents 75% of the entire private security sector in Turkey (Gürs, 2007/2008: 19). The following companies are listed as the institutional members on the website of the organization: Pronet, Securitas, Tepe Savunma, Alternatif Güvenlik, Euroserve, G4S Güvenlik Hizmetleri, ISS Proser, MİS Group, Securverdi and Bantaş. When this information is read with reference to the Table 3 below, which comprises to the biggest security companies in Turkey, it can be better understood that GUSOD is the most important association of capital groups in the sector.

It is of great significance to underline two crucial points in terms of the organizational and substantive features of GUSOD. First of all, it represents the amalgamation of national and international capital in the sector. In fact, the international links of the organization has been so powerful that in 2000 they managed to become a member of Confederation of European Security Services – CoESS, which is a European umbrella organization for national security services among the EU member states. GUSOD mentions this "achievement" by stating on its web site that they succeed to become a member of CoESS before "our country become full member to the European Union" ("GUSOD Tarihçe", no date). The second important feature of this organization is the fact that the management bodies of almost all the companies organized under GUSOD are filled by the retired personnel of public security institutions like police organization, armed forces or provincial governorship. That is, GUSOD

represents the amalgamation of not only national and international capital in the sector, but also the interests of ex-public officials and capital groups through formal and informal relationships.

Table 3: The Biggest Private Security Companies in Turkey

Name of the Company	**≠ of PSGs**
Securitas	6500
VIPSEC	6000
Tepe Savunma	5300
G4S Güvenlik Hizmetleri	3500
ISS Proser	3360
Securinet	2000
Euroserve	1500
MİS Group	1200
Pronet	1100
Oyak Güvenlik	1000

Source: http://www.ozelguvenlikhaber.net/popup/haber-yazdir.asp?haber=288

As being such an umbrella organization, the lobbying activities of GUSOD for changing the law no. 2495 or enacting a totally new law on private security gained momentum in the early 2000s. They issued press statements, gave newspaper speeches, organized professional meetings with public officials and private entities, and formed working committees in order to influence the public opinion and put pressure on the parliament to make legislative changes on the issue at hand. So much so that even before the enactment of a particular law on private security, they managed to open a vocational school of higher

education in the field of private security with the support of various state institutions. Entitled as the Private Security and Protection Program, this university-level education program was opened in October 2003 at the University of Kocaeli, Hareke Ömer İsmet Uzunyol complex.[15]

The discourse utilized by the representatives of GUSOD reflects that the core aim of the legalization of the private security sector reflected not only the concerns over unrestrained accumulation of capital, but also the contradictory operation of the sector itself. That is, they did raise the demand of the legalization of the sector in order to institutionalize the already existing capital accumulation processes, and indeed to establish more appropriate ties with the international capital. However, they were also concerned with the uncontrolled practices of use of force exercised by the private security guards in everyday life. For instance, upon the incidents of bank robberies in 2002, the question over the powers and authorities of the security guards became a heated debate in the newspapers. Oryal Ünver expressed that such problems of the sector would not be resolved unless legislative changes on the law no. 2495 were made (see Acar and Uğur, 2002).

In 2003, GUSOD formed "The Working Committee on the Law no. 2495" in order to prepare a draft law on private security services in Turkey. This Committee was formed by numerous retired public servants and businessmen. For instance, as a retired 1st class police chief, Yusuf Vehbi Dalda worked as a voluntary consultant in all the processes of law preparation.[16] "The kitchen of

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[15] This vocational school of higher education has in a way provided a significant institutional setting for not only training of new personnel for the sector, but also exchanging academic and/or policy-oriented knowledge within the sector itself. In 2004 and 2005, with the support of various public and private institutions like Kocaeli University and İzmit Chamber of Commerce, two nation-wide conferences were held. These conferences brought together parliamentarians, public officials from police organization, retired personnel of public institutions, and of course, owners, managers and consultants of the PSCs. These two conferences were functional in terms of assessing the newly enacted law on private security and identifying other problems and needs of the sector. All in all, it was one of the most explicit manifestations of *cooperation* between public representatives and capital groups.

[16] Dalda is introduced in a newspaper as in the following: "Yusuf Vehbi Dalda is the ex-director of the Department of Interpol at General Directorate of Security and the member of Interpol European Executive Committee. He then became the head of the Department of Protection at General Directorate of Security. He contributed to the enactment of the Private

5188" also included such persons as retired military colonel Oryal Ünver, who has been involved in the sector as company owner since the late 1980s; the businessmen Murat Kösereisoğlu, who is the current General Director of Securitas, and Hasan Özer, who was then at the administration of GUSOD. Dalda informs that the Committee worked in close cooperation with various public institutions like Ministry of Interior, General Directorate of Security (*Emniyet Genel Müdürlüğü* - EGM) and parliamentary commissions of TGNA. Furthermore, the Working Committee played a functional role in translating and transferring technical and legal knowledge about the issue of private security from the Western countries. The studies of the Working Committee culminated in the draft texts and documents, which the parliamentary commission on private security law benefitted while it was carrying out its duties (Dalda, 2005: 434, 435).[17]

In fact, one can argue that the influence of capital groups like GUSOD in the preparation process of the law was one of the most important mediation points for the consolidation of neoliberal hegemony within the state institutions, as far as the issue of private security is concerned. This point can better be understood with reference to a Dalda's brief comparative analysis of the draft law as proposed by GUSOD and the draft law as debated in the parliament in 2004. The descriptive and comprehensive analysis of these two drafts *vis a vis* the law no. 5188 provides important clues about the level of influence that GUSOD managed to have on the parliamentary debates (see Dalda, 2005: 436-480). The central point to be underlined in this comparison is that most of the suggestions and demands of the capital groups were translated into the law no.

Security Law in 2004 after the retirement, and established a private security company. He decided to become a private detective 7 months ago. He established a company called Inter Ofis Araştırma ve Danışmanlık. He is the first private detective who was the 1st class police chief. Dalda, who is a member of the International Federation of Associations of Private Detectives and the Private Detective's Association of Turkey, is working on the law on private investigation" (Cited in Aydın, 2008).

[17] The law preparation process was also aided by, among others, Mustafa Gülcü, who was then a 1st class police chief and the head of APK of police organization. He engaged in this process primarily by elaborating on the "philosophy of private security" and published many articles in *Polis Dergisi* (Police Journal), the main publication channel of the police organization (See Gülcü 2002a; 2002b; 2003; 2005). Besides, he actively contributed to the law preparation process and worked in close cooperation with GUSOD (Demir, 2008: 34).

5188. That is, the general character and content of the law were shaped by the pressures coming from within the sector itself.

All in all, the above brief analysis provides important clues about who was involved in the processes of the enactment of the law on private security in Turkey. On this basis, it can be asserted that the law preparation processes were determined, if not totally controlled, by a kind of interest group formed out of amalgamation of national and international capital which was *technically* directed or supervised by ex-personnel of public security institutions. Therefore, the specific roles of the capital groups like GUSOD played in the processes of legalization and institutionalization of private security provides quite significant means to understand the mechanisms of incorporation of particularistic interests into the state sphere.

After describing the actors and interest groups involved in the preparation process, it is now important to make sense of the general political position embedded in the law on private security in order to understand how the demands of these interests groups were translated into the state sphere. The law on private security numbered as 5188 was enacted in the parliament on 10.06.2004 with a majority of votes. The General Preamble of the law takes an explicit position in recognising the contradictory state practices in the pre-2004 period and denounces these past practices in order to justify the need for a new law to be enacted[18]. It explicitly states that:

> The law regulating the private security services numbered as 2495 ... has remained insufficient. There have occurred various problems because the law in question did not contain provisions concerning the private security of individuals; it made those institutions and organizations falling outside the mandate of the law ineligible to establish private security organizations; it necessitated the establishment of private security organizations in the institutions

[18] Here it is important to underline that this draft law and the subsequent report of the TGNA Commission of Interior were prepared by two MPs of AKP, namely Tevfik Ziyaeddin Akbulut and Şükrü Önder. While the former is an ex-provincial governor, the latter is a retired police chief. From the news reports, one can observe that especially the latter PM was closely engaged in the law preparation process by establishing close ties with the private security sector (see *tumgazeteler.com*, 2004).

> incorporated into the mandate of the law, and it made those failing to comply with this necessity be subjected to sanctions.
>
> Even though they did not fall into the mandate of the law, numerous institutions and organizations have begun to ensure their own private security in one form or another due to emerging need. To meet the demand arisen in the market, numerous companies have begun to provide private security services without [legal] permission and supervision

After justifying the *naturally* arisen need for private security law in such sentences, the General Preamble of the law provides the political-theoretical stance taken with reference to the issue of private security and its relation with the public police by stating:

> Ensuring the security of life and property of the public is essentially one of the most important missions of the state. On the other hand, the persons have the right to protect their lives and properties. In addition to the general security ensured by the state, this opportunity should be given to those who want to receive additional security for their life and property.

In fact, it is quite meaningful to observe that similar arguments and positions had been raised by many cop-sided views in various academic and/or policy-oriented studies. Among the others, Gülcü takes a radically *neo-liberal* position in trying to justify why the security services should be privatized. In his own words:

> The public services provided by the state resemble an umbrella that comprises the entire society. Each individual or institution benefits from these [services], in a sense they try to avoid the rain. However, if some under the umbrella want to wear *additional rainproof*, which [offers more security] than the one provided by the umbrella, they will do so. Yet, it is on the condition that they pay for the rainproof themselves [!] (Gülcü, 2002a; emphasis added).

The analogy utilized here is quite meaningful in the sense that the natural conditions of weather and sense of avoiding the rain are transferred into the sphere of social relations to argue for the necessity or indeed unavoidability of the solutions provided by the market mechanisms. As usual, this particular discourse glorifying the market has been the principal mediation through which

the privatization assault on the public services and goods has been enabled. Therefore, the issue of privatization of security is not exempt from this particular discourse. What is significant here is that the institutional clashes or contradictions within the organizational structure of the state were *resolved* at the time of the enactment of the law on private security in Turkey. That is, the old concerns over impartiality were not raised, and the very existence of private security was fundamentally embraced by almost all the political parties and public servants and bureaucrats.[19] This particular point is directly related to the consolidation of neoliberal hegemony within the state itself in the 2000s. In short, the process of institutionalization of the private security sector, which was partially enabled, if not totally determined, through voluntarist transfer of particularistic interests into the state sphere, ultimately consolidated the material and discursive basis of the neoliberal hegemony within the institutional structure of the state.

4.4.2. Capital Accumulation and Labour Processes in the Private Security Sector

The law no. 5188 established the politico-legal grounds for the aforementioned question of "additional rainproof", which shall be resolved under the conditions of the market. The pro-market language is embedded in each and every article of the law. First of all, the law explicitly states that it arranges the issues of "the protection of the individuals by armed personnel, establishment of the private security units within institutions and organizations or hiring of companies for provision of security services" (art. 3, cls. 1). The second clause of the same article strengthens the basis of receiving private security services from the PSCs by stating that:

[19] The analysis of the parliamentary debates demonstrates that the only member of parliament (MP) who was critical of the draft law and took an opposing stance to its enactment was Hakkı Ülkü, the representative of CHP (See Ülkü, 2004). The below discussion will touch upon one of the central points of objection raised by the MP, i.e. the danger of institutionalization of "mafia-like" organizations by means of private security sector.

> Upon requests of the individuals and organizations, and considering the protection and security requirements, permission will be given for the security services to be performed by staff that will be employed, for the establishment of the private security units within institutions and organizations or *for hiring of companies for provision of security services*. *Establishment of a private security unit within an institution does not preclude hiring of a security company when needed* (art. 3, cls. 2; emphasis added).

As the above cited clauses reveal, the law not only provides the legal and institutional basis of the establishment and operation of the security companies in the sector, but also aims at the proliferation of them (Haspolat, 2009). As a matter of fact, when one looks at the post-2004 period, it would be better understood that the private security sector has become one of the most important areas for capital accumulation. At this point, before making sense of the form of policing established with the law on private security, it seems plausible to draw a descriptive-statistical framework for the size of sector and to make critical analysis of the exploitative relations therein.

It has been a commonly observed phenomenon that the private security sector in Turkey and in many other countries has proliferated especially in big industrial and urban centres. With regard to this specific point, the Table 4 below is reproduced from Gülcü (2005: 8) to make sense of the size and condition of the private security sector in some big cities in 2005, a year after the enactment of a particular law on private security.

What should be particularly stressed with regard to this table is that the big cities like Istanbul, Ankara and Izmir have the largest share in the private security industry in terms of the number of PSCs and training institutions. On more concrete terms, these three cities together comprises 2/3 of the total number of security companies by 2005 (Gülcü, 2005: 8). In fact, this is quite reasonable because, as argued on various occasions, the form of policing manifested in private security has been a peculiar response of the property holding classes to the increasing threats, whether it be real or imaginary, to the

private property.[20] This phenomenon therefore reflects the neoliberal restructuring of the urban space and the social relationships therein. At this point, it is quite important to consider the fact that the big urban areas like Istanbul have been undergoing a social-spatial segregation through which the upper-middle classes have begun to live in "prosperity enclaves" in the outer skirts of the cities while the lower classes are relegated to the "islands of poverty" (see Eick, 2003; 2006). In this process, the social problems emanating from the ever-increasing levels of poverty and deprivation have been transformed into the problems of insecurity and disorder. Therefore, the rise of private security is closely interlinked with the transformation of socio-spatial organization of property relations in the urban space (see Geniş, 2009).

Table 4: The Number of Private Security Companies and Training Institutions in Some Provinces (by June 2005)

Province	Private Security Company		Training Institution	
	Number	%	Number	%
Istanbul	143	37.4	71	26.1
Ankara	62	16.2	33	12.1
Izmir	31	8.1	25	9.1
Bursa	16	4.1	11	4.0
Antalya	14	3.6	16	5.8
Kocaeli	12	3.1	7	2.5
Adana	11	2.8	7	2.5
Içel	9	2.3	4	1.4

Source: Gülcü (2005: 8)

[20] For the critical analysis of the continuous reproduction of the sense of insecurity in and through the process of commodification of security, see Paker (2009).

On the other hand, the statistical data regularly updated by the EGM Department of Private Security (*Emniyet Genel Müdürlüğü – Özel Güvenlik Dairesi Başkanlığı*) provides a much more comprehensive description of the size of the sector today. According to the Table 5 below, about 1.300 private companies are operating in the sector employing over 300.000 private security guards (PSG). An important point to be mentioned with reference to this table is that the sector experienced a kind of a boom just after the enactment of the law on private security in 2004 in terms of the number of security and training companies established and the private security guards employed. After this initial stage of rapid expansion, the sector has become consolidated in time. In fact, the consolidation refers to the concentration of capital in the far fewer hands. That is why the member companies of GUSOD, as mentioned above, comprise about ¾ of the entire sector today.

This table should be read in conjunction with the dominant discourse that has been utilized by state officials, capital groups and the mainstream media to legitimate the transformation underway. Accordingly, it has been regularly put forward that the private security sector has been providing an important opportunity to incorporate the unemployed masses into the labour market. It is a sector arising as a "new hope for the unemployed young people" (Sancar, 2010). This discourse over the "market potential" of the private security has been repeatedly referred in the process of the commodification of the sphere of security especially after the enactment of the law no. 5188. It has been argued that the private security provided invaluable opportunity for a country like Turkey to partially resolve its chronic problem of unemployment through the new jobs generated in the newly-emerging industry (p*olis-haber.com*, 2008). Being a big country, Turkey is presented as a "paradise" for capital accumulation in the field of security. In fact, as early as 2005, the number of private security guards exceeded those of the other countries in Europe. Regarding the "big potential" of the Turkish security market, some newspapers report that this *success* has been achieved mainly because of the *cheap security workers* and the frequent enactment of decrees of amnesty by the state (!) (*gurbetport.com*, 2005). This was a "piquant pie" for which the companies

enter into a severe competition for more share (*tumgazeteler.com*, 2004). In fact, according to the recent reports from the news, the "market value" of the private security sector is about US$3 billion per year in Turkey (*haber365.com*, 2011).

Table 5: Statistics on PSCs and PSGs

(as of May 2011)

	2004	2005	2006	2007	2008	2009	2010	2011	TOTAL
# of companies granted official authorisation	29	516	240	145	111	129	124	19	1.313
# of training institutions granted official authorisation	38	292	102	96	72	81	37	4	722
# of places received legal permission for private security	12.450	7.078	6.280	2.852	5.608	8.638	4.595	2.454	49.955
# of PSGs gained certificate		76.587	137.584	97.854	103.446	138.883	136.192	49.186	739.732
# of PSGs gained identification card	57.855	59.303	57.011	41.640	60.681	74.851	76.626	37.154	465.121
# of personnel consigned	57.855	28.287	42.350	32.584	40.768	53.916	41.900	8.699	306.359
# of current PSGs		23.458	32.547	24.987	38.729	27.738	23.516	5.214	176.189
# of companies closed/being closed		5	7	9	22	22	18	9	92
# of training institutions closed/being closed	1	4	4	11	14	12	29	7	82
# of warning centres	114				17	19	44	4	198

Source: http://ozelguvenlik.pol.tr/teskilatistatistik.asp

Such a discourse is much more explicitly expressed by the employers themselves in the sector. For instance, as one of the retired personnel of the police organization, İbrahim Bengi argues that his security company provides job opportunities to the unemployed people even under the strict conditions of economic crisis in 2008. As the owner of the Bengi Özel Güvenlik, he states that:

> In a time when the businessmen fire their workers in the factories under the conditions of the economic crisis which arose in the world and Turkey, we, as the Bengi Security Company, have incorporated Milas-Bodrum Airport into our mission chain as the requirement of *our sense of business obligation*. We have thereby incorporated Bodrum Airport into our security network with 200 new security personnel, 180 being permanent and 20 being reserve personnel. In a time when the unemployment is on the rise in Turkey, we have opened new working area to 200 new security personnel (Cited in *1turk.net*, 2008; emphasis added).

In fact, this particular perception from within the sector is specifically important to draw critical conclusions on the exploitative relations in the sector. The established legal regime incorporates the potential security guards into the *profitable* market of security even before they begin working. It is about the legal requirement that those seeking employment in the sector should bear a considerable amount of costs in order to become an eligible security guard. The law no. 5188 makes the security guards responsible for bearing the costs of training, health report and related official and administrative documents. The total amount of the costs is about 1500 Turkish Liras under normal conditions. This particular aspect of the issue refers to that even before they are employed in the sector, the security guards are incorporated into the capital accumulation process. One security guard regards these requirements as being "...contrary to the Constitution and the Labour Law, and [opening] the way for some people to gain unjust enrichment" (Cited in Bayer, 2007). Therefore, the private security sector should be evaluated in terms of pre-employment generation of *profits* as well. As can be inferred from the Table 6 below, the number of people who covered the necessary costs are far larger than the number employed in the sector, which is about 300.000.

Table 6: Statistics on Basic Training Exams (33 Exams)
(as of May 2011)

	2004	2005	2006	2007	2008	2009	2010	2011	TOTAL
# of people who took the exam		116.295	251.408	149.128	179.974	233.916	141.087	48.382	1.120.190
# of people who succeeded in the exam		85.584	162.026	110.170	111.816	162.927	95.211	31.382	759.116
# of people who failed in the exam		30.711	89.382	38.958	68.158	70.989	45.876	17.000	361.074
Success Rate (%)		73,59	64,45	73,88	62,13	69,65	67,48	64,81	67,76

Source: http://ozelguvenlik.pol.tr/teskilatistatistik.asp

Furthermore, the law no. 5188 requires the private security guards to renew their identity cards in every 5 years. This means that all the above costs should be re-made by the private security guards when their working licence expired. The Table 7 shows the numerical size of the renewal issue.

Table 7: Renewal of Training Exams (8 Exams)
(as of May 2011)

	2004	2005	2006	2007	2008	2009	2010	2011	TOTAL
# of people who took the renewal exam						25.040	64.479	13.128	102.647

Source: http://ozelguvenlik.pol.tr/teskilatistatistik.asp

Speaking from within the sector, a security guard describes the burden created by the expenses of renewal training by raising the following complaints:

> I am working as an armed private security guard in a private bank. In 1998, they gave us identification cards ... on the basis of the law no. 2495. However, our identity cards are valid for only 5 years. The cards expired by June 26, 2009. We have taken renewal training and succeed in the exam. All the other banks institutionally paid for all these costs. We are bearing these costs ourselves. We are working for minimum wages. In order to acquire the identity card, we are asked to provide health report ...., which cost for 150-200 Turkish Liras, bear training cost of 300-500 Turkish Liras, and the cost of tuition fee to the police organization, which is 320 Turkish Liras. All these costs are requested from us and we are aggrieved (Cited in Armutçu, 2010).

This means that the exploitation begins from the pre-employment phase of private security. Once they acquire the identity cards and manage to find a job, they enter into an insecure and flexible process of subcontracting within which they have almost no collective and social rights. Therefore, the institutionalization and legalization of the sector with the law no. 5188 did not mean the pro-labour restructuring of the wage relation, but even more intensified grounds for the exploitative relations in the sector. Therefore, the working conditions of the security guards should be critically evaluated. The security guards are exposed to long working hours for minimum wages, which do not provide sufficient means of their material and mental reproduction. A private security guard describes the exploitative relations in the sector with the following statement:

> *The working conditions in the sector nearly abet the private security guards for committing crimes*. The salaries of many employees are not paid in time and in full amount. The social security registration of many of my colleagues is reset every 11 months so that they are prevented from receiving severance payment. Experiencing the fear of being fired from the job, my colleagues cannot file complaints about the issue. The private security guards are treated almost as a third-class human being. Almost all private security guards are burdened with additional responsibilities. They are worked in every job except their own responsibility. They are imprisoned to minimum wages despite long working hours and their stressful occupation. In addition to

> this minimum wage, many colleagues are not given travel and meal allowance (Cited in *ogghaber.net*, 2011; emphasis added).

The legal regime is designed in a way that the security guards have almost no collective and social rights. They cannot get organized and establish trade unions to defend their rights in the flexible sector of private security. Furthermore, they cannot participate in the strikes, as the article 17 of the law establishes. Under these conditions, the private security guards become *footservants* who perform any duty the customer or boss wants him/her to do. This point can be observed in the below expression of a security guard:

> I am a security guard working in the private security unit of a private company. We are working according to the laws and acts (enacted for private) security. There are working rules of the management order in the workplace, which we perform in our duties. The owner of the business is using us as he wishes and we cannot raise our voices. There are surveillance cameras in the areas where we work and in the dining hall. The owner of the business watches these cameras at intervals and when in the field of view he sees us making exceptional behaviours, he calls us to the office and storms, uses insulting words and on some cases we have to give our written defence. *This makes us mentally depressed and we cannot work under healthy conditions* (Cited in *hukukforum.com*, 2011; emphasis added).

The analysis so far proves that with the enactment of the law no. 5188, the private security sector was brought into a coherent politico-legal framework within which the labour-capital relations were crystallized in favour of the latter. This provides an important clue about the ways through which neoliberalism constitutes *self-regulating markets* and then legalizes it through a kind of an institutionalization process. Amidst this process has been the consolidation and thereby institutionalization of the discipline of the capital over the labour.

4.4.3. Revealing the Contradictory Class Character of Private Security

The law no. 5188 defines private security as a "complementary" form of policing to the public security in the article 1, and establishes the grounds for

the complex, hybrid and sometimes contradictory relationship between public police and private security. For analytical purposes, this specific issue, which has been previously conceptualized as "division of labour" in policing processes, will be critically examined in a more detailed manner in the following part when analysing the relationship between public police and private security. Before making such an analysis, it is important to make sense of the legal provisions with regard to the powers and authorities of the private security guards, establishment and operation of PSCs and other important aspects of the law. This analysis would reveal that a peculiar form of security apparatus was defined and empowered with the public powers and made operational in the policing and surveillance processes of everyday life. The discussion below will incorporate this descriptive analysis into a more general context by emphasizing the contradictory class nature of the form of policing constituted.

Entitled as Private Security Guards, the Part II of the law describes all the powers, authorities and spheres of duty defined for the private security guards. It is quite useful to reproduce the article 7 with sub-clauses to make sense of the authorities of the private security guards in a comprehensive manner:

> a) Letting the persons who are to enter the areas where private security guards establish protection and security, pass through sensitive doors, checking such people with detectors, checking the goods through X-ray devices or any other security systems,
>
> b) Checking the identity cards, letting the persons in through the sensitive doors, checking people with detectors, checking the belongings through X-ray devices or any other security systems in meetings, concerts, sports contests, stage performances and in funerals and wedding ceremonies,
>
> c) Arresting in accordance with the article 90 of the Code of Criminal Procedure, d) Arresting and searching those people for whom arrest, custody or conviction warrants exist in their field of mission,
>
> e) Entering the offices and houses in their field of mission in case of natural disasters such as fire, earthquake when help is requested,

> f) Checking the identity cards, letting the persons in through the sensitive doors, checking people with detectors, checking belongings through X-ray devices or any other security systems in public transport facilities such as airports, seaports, stations, railway stations and terminals,
>
> g) Subject to notifying the police forces immediately, taking in custody any goods which are related to any crimes, or may be evidence or may lead to danger though not related to any crime,
>
> h) Holding in safe custody any left and found goods,
>
> i) Catching individuals with the aim of protecting them from any danger in terms of their bodies or health,
>
> j) Protecting the crime scene and the evidences, making arrests with this aim in accordance with the Article 168 of Code of Criminal Procedure,
>
> k) Using force in accordance with the Article 981 of Turkish Civil Code, Article 52 of The Law of Obligations, Articles 24 and 25 of Turkish Criminal Code.

As can be inferred from these clauses, the law empowers the private security guards to exercise specific powers and authorities that have been traditionally reserved to public police forces. These clauses constitute the grounds for the private security guards to intervene into each and every sphere of everyday life for the purpose of ensuring the security of the public and private places they are employed for. One of the most important aspects of such practices of policing is the issue of use of weapons by the security guards. The first clause of the article 8 makes the authority to hold and carry weapons conditional upon the permission of Private Security Commission (*Özel Güvenlik Komisyonu*). The same article brings some restrictions on this particularly important aspect of use of force by the private security guards. The second clause of the article states that:

> … no armed private security guards are allowed to work in schools, health facilities, gaming facilities and in places where alcoholic beverages are served. Private security guards may not carry their guns in private meetings, sports contests, stage performances and in similar activities (art. 8, cls. 2).

These clauses demonstrates that the state tries to draw a clear legal basis for the question of use of weapons. However, it should be stressed that the use of force, including but not limited to the use of weapons, is an issue practically defined in everyday relations and therefore cannot be easily controlled by the state (see *bianet.org*, 2008). In fact, this issue has been constituted in much more contradictory and ambiguous way via the regulatory documents issued after 2004. For instance, it depends on the decision of the provincial Private Security Commission to decide whether or not the private security guards will use such coercive means as nightstick and pepper gas. The Regulation on the Implementation of the Law on Private Security Services (*Özel Güvenlik Hizmetlerine Dair Kanunun Uygulanmasına İlişkin Yönetmelik*) states in the article 26 that the fire weapons other than guns can be used by the private security guards if the *character of the duty* requires so. For a matter of fact, the state has been forcing the big corporate companies, who consider making investment in the eastern part of Anatolia, to establish security units which would be armed with heavy weapons. This simply means the establishment of private armies by the corporate bodies, which was in fact rejected by the capital groups themselves because of the high costs required by it and anticipated danger of the "terror" of security guards (see *patronlardunyasi.com*, 2010).[21] The ambiguity with regard to the use of force is not limited to the issue of use of weapons only. It depends on the decision of the provincial Private Security Commission to grant the powers and authorities to private security guards regarding the coercive means such as nightstick and pepper gas. The Regulation in question establishes that the Commission may give the permission to the usage of chemicals, *which do not have permanent effects on living beings*, on the condition of the principle of proportionality (art. 24). One can observe that in recent years some universities have begun to give the authority to use pepper gas and nightstick to their security guards (hu*rriyet.com*, 2010a).

[21] A critical analysis of this particular aspect of the issue, which reflects the inherently posed *threat of the violence of the lower classes*, will be developed in the following pages.

This de-centralized supervision structure over the powers and authorities of the security guards can be observed in the articles regarding the permission to be given for the specific purposes for which security services shall be provided via security companies too. The law establishes that the provincial governor will be responsible for granting the permissions for private security services by stating that:

> Protection of the individuals by armed personnel, establishment of the private security units within institutions and organizations or hiring of companies for provision of security services are all subject to the permission given by the Governor. For meetings, concerts, stage performances and similar activities and the temporary or emergency situations such as transportation of money or valuable properties, the Governor may grant permission for private security without the decision of the commission (art. 3, cls. 1).

As discussed above with regard to the law no. 2495, the strict centralized supervision structure over PSOs was reflective of the state's concern of preventing the possible breaches of the law at the local level. However, as the above cited clause makes it clear, the issue is now delegated to the provincial level. In fact, this is part and parcel of the general trend of de-centralization that has been underway in the era of neoliberal transformation. Therefore, one can say that the sphere of private security is just another topical areas through which the state power has been rescaled so as to enable the market actors operate *independently*.

What can be said on the basis of all these is that the private security was established as a peculiar form of policing, which is subjected to *laws* of the *free market* and empowered with the public powers in managing the ever-increasing contradictions of everyday life. In fact, the pace of proliferation of private security has been so rapid that there is no social sphere which is left outside its surveillance in one way or another. So much so that, even the buildings and stations of public police forces like police organization and gendarmerie have begun to be secured by the private security guards (*haberturk.com*, 2010). Therefore, the private security has become the principal form of everyday policing which is employed for administering the social contradictions

exacerbated through the processes of socio-spatial polarization in the neoliberal urban space. This particular aspect of the transformation underway reveals one of the central dynamics in the contemporary policing processes. It is the fact that the daily administration of such social problems as pick pocketing, theft, beggary, etc is being "delegated" to the private security guards. This process of "delegation" has meant that "preventive policing", which is categorized in the literature of police sciences under the responsibilities of public power, is "transferred" to private forms of policing (Ünal, 2000: 5).[22] It is particularly significant phenomenon because these social problems explicitly reflect the deepening class contradictions in the neoliberal urban space. The neoliberal security rationality continuously reproduced through political processes and everyday social relationships construct these as the problems of disorder or insecurity, which should be carefully managed. That is, abstracted from the material relations of inequality, these issues have been reconstituted as *management* or *administrative* problems, which are to be resolved by any means necessary. In this regard, private security becomes one of the principal forms of policing that is organized and operate with an overt class bias in order to manage the problem of poverty.

To the extent that the phenomenon of private security reflects and reproduces the existing class divisions, it can be named as an *upper-middle class dream for security* in the neoliberal urban space. This particular conception deserves explanation and theoretical elaboration in order to make sense of the overt class nature of the processes of social control in the neoliberal era. As underlined on various occasions, the perceptions from within the sector is functional to make sense of the phenomenon at hand. The quotation below is from a newspaper interview made with Orhan Aksel, who was then the director of GESIDER, in March 2000, long before the institutionalization of the private security sector. However, Aksel provides a *forward looking* perception by emphasizing the

[22] However, it should also be stated that the process of intensification of everyday policing forms does include not only proliferation of private security, but also the intensification and professionalization of publicly organized social control processes which can be observed in the initiatives like MOBESE and the street police (*sokak polisi*) (see *cnnturk.com*, 2009).

underlying reasons for the rise of the private security in Turkey. The news article states that:

> According to Orhan Aksel, 'the young population and the gaps in the distribution of income will foster the security sector'. This is because of the fact that the youth refers to potential crime[/criminals] when considering in connection with the education problem of Turkey. Moreover, the inequality in the income distribution is a powder keg. For Aksel, even though the demand for security is currently coming from high-income [people] and the industry, this need has gradually emerged for the middle-income people too (*sabah.com*, 2000).

The content of this upper-middle class dream of security is therefore based on the neoliberal rationality which perceives the question of poverty as a central *threat* to the everyday reproduction of property relations. The statement of Saim Özkan below, the chairman of the executive board of VISPEC Özel Güvenlik, provides one of the most explicit acknowledgement of the class content of private security:

> In this period [of deepening economic crisis], *even the single worker who has been fired from the job has become risk*. Besides, [the economic crisis] has caused troubles in the issues of collection of checks and bonds and payments. Therefore, the demand of the bosses for private security is observed to increase in the recent days. We encounter with 10-15% increase especially in the demands for bodyguards (Cited in *avmgazette.com*, 2010; emphasis added).

Therefore, the establishment of explicit connection between poverty and crime refers to the fact that the private security guards are regarded as not only security workers, but also potential future criminals. In this regard, the private security sector plays a functional role in transforming the potential criminals into policing agents who are tasked with the administration of poverty. Bülent Perut, the president of Federation of All Private Security Associations (*Tüm Özel Güvenlik Dernekleri Federasyonu – TOGF*) in a way summarizes what is at stake here by stating that:

> We are taking serious burdens from the state. We recruit those people remaining idle or looking for a job anywhere, for whom becoming criminals is a high possibility. *We transform them into*

> *people fighting against crime.* We both generate employment and provide a serious effect in and contribution to the crime fighting. When there was a possibility for the man to involve in a crime, to become a robber, he is repositioned in a while as a person who would chase the robbers … (Cited in *hurriyet.com*, 2010b; emphasis added).

The examples of policing the poor through the private security guards in the everyday life range from business districts, shopping malls, gated communities to the bazaars and touristic areas. In other words, the entire fabric of neoliberal urban space is being policed through private security on the basis of a particular security rationality which redefines the question of poverty and transforms it into a problem of criminality. For instance, the strategies businessmen in Osmanbey business district in İstanbul provide important clues about how the neoliberal security mentality is rationalized and its corresponding practice is materialized. In response to the increasing rates of pick pocketing and theft, Osmanbey Textile Businessmen's Association (*Osmanbey Tekstilci İşadamları Derneği – OTIAD*) resorted to Bengi Güvenlik, a private security company almost totally consisting of retired personnel of police organization. As being the member of board of management of OTIAD, Adil Işık, explains this process as in the following:

> Our foreign customers make wholesale deals. Our neighbourhood, where millions of dollars are in transaction everyday, were the target of the purse-snatchers. The exorbitant sum of monies of the tourists who come here to buy goods were used to be extorted by the purse-snatchers and robbers. [In response], as an association we have made an agreement with the security company by covering the expenses. Within 8 months, we have witnessed that about 42 incidents of pick pocketing and theft have been prevented before they occurred. Nowadays, the tourists make deals in a more safely way (Cited in *bengiguvenlik.com*, no date).

What is at stake here is the consolidation of corporatized crime control, which establishes a close relationship between crime and place marketing and thereby reconstitutes the space and populations to attract capital and the people of right resort (Coleman, Tombs and Whyte, 2005: 2517). The social order is redesigned in line with the neoliberal accumulation regime in order to control and remove "the usual suspects" from the neoliberalized urban space (ibid).

With the above analysis, it becomes clear that the private security has become one of the principal forms of everyday policing that is employed for the management of contradictions of property relations and the question of poverty. However, this process is conflict-ridden in the specific sense that it opens the way to organization of coercion on the basis of class distinctions. Although the mainstream media in Turkey does not give place to such analyses, Umur Talu from *Sabah* warns that the private security has become a "public threat" by stating that:

> The essence of the issue is as follows: when a traditionally public obligation and service such as "security" began to be privatized, it means that the propertied and powerful in the society gain "armed superiority" over not only the criminals, but also the ordinary people. It means the establishment of a private line of defence against the public, by means of private security guards, who are released to the front line (to the doors, chimneys) for chickenfeed without even having the right to strike, as if they were public servants! The savageness of ""every man for himself" is the empowerment of a minority as opposed to the majority (2004).

The above assertion directs one's attention to one of the central aspects of the issue at hand. It is, to simply put, the empowerment of upper classes against the socially undesirables. However, this process of empowerment involves the lower classes as the workers of security in the service of upper classes. Therefore, the issue at the hand becomes much more contested if one considers that the private security guards are mostly recruited from the lower sections of social strata. That is, the daily security of persons and property of the upper-middle classes has become ensured by the lower classes themselves. In this sense, the question of private security is inevitably related to coercive reproduction of the class contradictions not only in terms of the upper classes but also with respect to the lower classes.

The central observation to be made in this regard is that the proliferation of private security in everyday life has resulted in the intensification of legally ambiguous coercive practices employed by the private security guards. In this regard, the following observation can be made on the basis of transformation of the general form of portrayal of private security by the mainstream media in

recent years. Especially in mid-2000s just before and after the enactment of the law no. 5188, the private security was presented as "the solution" to the increasing risks and insecurities in everyday life. Within the context of state's inability to cope with ever-increasing crime rates, it was argued, private security fulfilled the security gap for the individuals and communities, who were willing and able to resort to such an alternative. Such a discourse was based on the glorification of the market as the sole means of resolving problems and meeting needs of individuals (see *aksam.com*, 2004). However, especially in recent years, one can observe that this affirmative tone has been largely downplayed. The issue of private security is mentioned in the newspaper pages with respect to not its contribution to social order and security, but its being the (potential) source of insecurities in everyday life. The headlines have changed accordingly to include such phrases as "the terror of private security guard", "arbitrary violence", "disproportionate force", etc (see *milliyet.com*, 2008; *sabah.com*, 2009). Such a transformation in the mainstream media reveals the ever-deepening contradictions of neoliberal social order with the proliferation of private forms of policing.

The question of how this particular phenomenon is experienced and transformed in and through class relations in everyday life becomes a central problematique in this regard. At this point, it seems plausible to cite the following incident. The incident occurred in a gated community in İstanbul in December 2008. Ahmet Çakır Bovadaoğlu was killed by a private security guard following a dispute over the parking of a visitor's car in front of the housing estate. When the security guard intended to remove the car from the entrance gate, the businessman reprehended him. The response of the security guard was deadly for the businessman: "He affronted me. I could not stand, and I stacked the knife, which I was carrying for paring the fruits, in him." The security guard was arrested after the incident. Such incidents have proliferated in the recent years, and the newspaper headlines are often filled with such sentences as "terror of private security in holiday camp", "the security guard killed the businessman", "the married couple beat by the security guard of the residential site", etc (*sabah.com*, 2009; *patronlardunyasi.com*, 2008).

This inherently posed *threat of violence of lower classes* has been explicitly expressed on various occasions. So much so that, even the capital itself has begun to question the very legitimacy of the state if the public provision ensuring security is made outside the responsibility of the state. In this regard, the below case is quite reflective of the contested issue at the hand. The government has been encouraging the private companies to construct hydroelectric power plants (*Hidroelektrik Santrali - HES*) in South-Eastern and Eastern Anatolia in the recent years. For such investments, it provides numerous incentives to attract capital to these regions. However, it is made conditional that the security of these power plants will be ensured by the private companies themselves. Against the demands of the state, the capital groups voiced their opposition in such a sentence:

> You will both make investment and pay taxes, and additionally establish armed army yourself. If it [the state] will not ensure our security, why do we pay taxes? *This is a dangerous demand, which would cause chaos in the country. How shall we guarantee that the security guards armed with long barrelled weapons point these against us? How shall we take [such actions] under control?* What is more, are the long barrelled weapons sold in the street? It is stated that each weapon costs 30 thousand dollars. If we buy 100 of them, it will amount to 3 million liras. Additionally, if we give approximately 1.500 lira-salary per month for 150 security guards each, it will amount to 225 thousand liras. Shall we establish power plant, or army? (Cited in *patronlardunyasi.com*, 2010; emphasis added).

At this point, such an observation can be made with regard to class contradictions reproduced through the processes of social control via private security. It is in a way concerned with the other side of the class experience of coercion through private security. Even though licensed by the law, the private security guards are not regarded as the *agents of law* by the upper classes. This is the case especially in the instances where the security guards try to perform their assigned tasks which are defined not only with the law but also within the framework of the workplace they work for. That is, the everyday practices of the private security guards are questioned to the extent that they are against the

desires and interests of those upper classes. Bülent Perut, the president of TOGF underlines the contradiction here by stating that:

> We are encountering with numerous incidents like battery and revilement against the private security guards. Even though the security guards do not file complaints against these, investigation is opened against those committing such acts because they (private security guards) perform public service. As far as I remember, the last incident was that the publicly famous Sema Çelebi, who does the business of lobster selling and the anchoring in the competitions,, was sentenced for 11 months for the revilement against the security personnel. This incident was not made publicly known (Cited in *ntvmsnbc.com*, 2010).

All in all, the above analysis has tried to underline that private security refers to a peculiar form of policing which is defined with reference to overt class bias, however, it is not exempt from the contradictions of its social constitution. The simple empirical observation that the security workers in the sector are mostly recruited from the lower classes of social strata constitutes private security as a peculiar form of policing the poor through the poor (see Eick, 2003; 2006). This contradiction can be observed in the recently rising violent practices of security guards, which are increasingly defined with an overt class bias. Therefore, it is the assertion here that with the law no. 5188, what was institutionalized and thereby incorporated into the state sphere is the management of class contradictions through the practices of overt coercion.

4.4.4. The Contradictory Fusion of *Public* and *Private* Policing Forms

The dominant perceptions in Turkey, mainly produced by cop-sided literature, have argued that the private security brings novel means of maintaining social order through much more democratic processes of social control. As discussed in Chapter 2, the neo-Weberian discussions come up with such an argument too. Within the context of Turkey, this dominant paradigm has been influential in the preparation and enactment processes of the law on private security and regularly utilized to justify the proliferation of private security guards in each and every sphere of social life. It has been based on the particular neoliberal

assumption that the market is a place of freedoms and choices through which all the social problems, including those related to the security issues, can be resolved. So much so that, such perspectives have come to a point of arguing for the (partial) privatization of almost all aspects of criminal justice system.[23]

These perspectives are grounded on a particular theoretical-methodological framework which perceives the state-society/market relationship as an externally constituted and ontologically separate connection of two distinct spheres. Therefore, the academic, technical and/or political knowledge produced on the basis of this central methodological-epistemological framework provides not a critical analysis of the social reality, but a functional intervention into the processes underway to resolve the *problems* of security. Furthermore, if one considers that this dominant paradigm have been produced by those having organic relations with the police organization and private security sector, it will become easier to observe the ideological motivations behind the processes of knowledge production with regard to the issue at the hand. An alternative framework is needed to understand the rather complex, hybrid and contradictory relationship between the public and private forms of policing.

The analysis begins with the argument that the private security does not refer to a policing practice externally constituted and operating in relation to the state. There are a number of formal and informal mediations through which the private security sector has been constituted and made operational. That is, the relationship between public policing and private security is such that it cannot

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[23] Gülcü exemplifies this extreme stance by carrying out his discussion with reference to "the philosophy of private security". For him, liberal democracy and liberal economics are the two central pillars on which the private security should be based. Moreover, many publicly organized institutions like prisons, forensic medicine, expertise should be privatized for the maximization of individual and social utility (see Gülcü 2002a; 2002b). As a matter of fact, the applicability of "private prisons" to the Turkish context has begun to be debated in academic and policy-making circles in the recent years (see Görkem, 2009; Şahin and Görkem, 2007). It is important to underline here that the master thesis of Hilal Görkem on the issue of private prisons was published by the Directorate of Strategy Development, Ministry of Finance (see Görkem, 2009). This in a way reaffirms that the public institutions have *successfully* incorporated the market discourse. For a critical analysis of the "punishment sector" as one of the last forms of "public-private partnerships" in the era of neoliberalism, see Özdek (2005).

be grasped with reference to simple distinction between public and private spheres. Then, what is needed is the critical analysis of the concrete practices and structures that are at play. The first aspect of this discussion is concerned with the formal relationship which was constituted by the law no. 5188 between the public police and private security. The legal framework of the law constitutes this relationship as "a ambiguous sphere" (Yardımcı, 2009: 239). Such ambiguity can be explicitly observed in the articles of the law regarding the authorities and spheres of duty of the private security guards. The law establishes that the private security is "complementary" to the processes and practices of ensuring the public security (art. 1). This provides the legal grounds for the utilization of private security guards by the public police forces if and when required. The article 6 of the law provides much more explicit reference to this point by stating that:

> In terms of ensuring the public security, the authorities given to the Governors and District Administrators with the Provincial Administration Law with the law numbered as 5442 are reserved. In the case that such authorities are performed, the private security unit and private security staff have to obey the commands of the civilian administration authority and the general police chief.

This particular relationship is strengthened in the regulatory documents issued in the post 2004 period. For instance, article 13 of the Regulation on the Implementation of the Law on Private Security Services explicitly reinforces the above mentioned provision (2004). What is important here is that the private security is formally constituted in an ambiguous way so that it is utilized as *an extra arm/eye* of the state itself. In this regard, if one keeps in mind that the notion of *public security* has been discursively constructed in a quite ambiguous, authoritarian and nationalist manner within the specific socio-historical context of Turkey[24], it will become clearer in which social events and incidents the private security guards would be utilized as complementary unit to the public police forces. As a matter of fact, it is observed throughout the research period of the thesis that the private security

[24] For a critical discussion on the issue, see Berksoy (2007b; 2010), Uysal (2010) and Bora (2008; 2004).

guards have not hesitated to intervene into the social protests and demonstrations organized by opponent leftist groups and student organizations in the recent years. Working in close *cooperation* with the public police forces, the private security guards resort to violent means (nightstick, pepper gas, etc) and apply disproportionate force in these incidents (See Arpa, 2008; *haber.sol.org*, 2010; Salman, 2010). These coercive practices, which have rapidly increased in numbers in the recent years, demonstrate that the private security is not only a form of policing tasked with the management of the social contradictions and inequalities in the everyday life. It has also become a central "complementary" form of policing the social discontent in tandem with the public police forces. That is why the aforementioned conception of "division of labour" between public and private forms of policing refers to an analytical distinction to explain the social reality at hand, rather than different policing forms which are ontologically constituted as separate entities. However, with the proliferation of such incidents, a central contradiction too reveals itself in terms of the practices of coercion that can or cannot be exercised by private security guards. In other words, to the extent that the practices of coercion performed by the private security guards are based on an ambiguous legal framework, they have become much more embedded in the everyday relations and cannot be easily controlled by the state.

The informal relations in the private security sector provide the second set of proofs for the argument that this sector is not organized and operating in an externally related relationship with the state. In fact, as discussed in the previous part, the informal relations have been always present in the initial constitution and subsequent consolidation of private security sector in the first phase of neoliberal transformation. However, what is significant is that the law no. 5188 provided politico-legal and institutional approval or recognition of these informal relations. Then, the critical analysis of this particular point will be helpful to make sense of the structural and substantial features of the form of policing under discussion.

It is quite widespread in the private security sector that the retired personnel of security institutions of the state enter into the sector by either establishing companies, becoming a party to already established companies, or providing consultancy services to the private security and training companies. The question of *mafia-like organizations* determined in and through such relationships has been one of the most contradictory and important aspects of the issue at the hand (see Polat, 2008). In fact, the question of penetration of mafia-like organizations into the private security sector was raised in the parliamentary debates just before the enactment of the law no. 5188 in 2004 by Hakkı Ülkü, CHP representative in the parliament. Ülkü argued that the relationship between public security forces and private security sphere should be drawn in a more explicit and separate manner by stating that:

> In the French law concerning this [private security], the provision that "under any circumstances, an ex-police officer or soldier cannot be the director or employee of such organizations [private security companies]" is a fundamental factor in identifying the relationship between the state and private security companies; because that ex-police officers and soldiers occupy the positions of director or employer in the private security companies would open the way to the penetration of mafia-like organizations into the sector, which is a topic that I have been repeatedly stressing on. In the first draft of the law that was sent to the Commission, it was required that at least 1/3 of the administrative personnel of the company shall be from General Directorate of Security, Turkish Armed Forces, National Intelligence Organization, judiciary or civilian administration. In the current draft law, this provision has been removed; however, there is no constrains [in this draft law] before the employment of ex-personnel of the police organization or armed forces in the private security companies (2004).

What was warned about by the MP has been legalized with the law no. 5188, and the private security sector has been operating in close connection with the retired personnel of the different state institutions having direct security functions. There are many *famous* names to be mentioned here such as the ex-Governor of Istanbul Erol Çakır, retired Brigadier General Veli Küçük, retired Staff Lieutenant Colonel Oryal Ünver, ex-Director of the Department of Narcotics in Istanbul Nihat Kubuş, etc. These and other people have been active in the processes of preparation and enactment of a particular law on

private security and have benefitted from the largest share from the sector. Moreover, the Police Care and Donation Fund (*Polis Bakım ve Yardım Sandığı – POLSAN*) has begun to engage in security business with the establishment of the security company called as Quantum in 2007. As being a profit-making organization operating in various sectors such as construction, software programming and insurance, POLSAN's presence in the sector means the deepening the above mentioned ambiguous relationships in the sector. This ambiguity blurs the conceptions of legality and illegality so deeply that, the establishment of security company becomes legalization of what is illegal. A senior police officer describes the issue as in the following:

> When our retired personnel suffer from financial difficulties and do not find jobs, they were used to involve in illegal affairs. Now, after when they are retired, those friends who want to work will be able to work for the company [Quantum]. The retired police officers do not have any problem with weapon training; They have their own guns as well; they have long years of experience. Therefore, the retired police officers will work for this company (Cited in Güneç, 2007).

On the other hand, it should be stated that such informal relationships in the private security sector is not peculiar to Turkey. It has been experienced in many countries where the security has gone through privatization processes. So much so that, the literature has produced specific conceptions like "old-boy network" to make sense of this particular issue (Karaman and Seyhan, 2001: 163, 164). Through such relationships, various illegal practices such as "seizing the tender" in the private security sector, "by-passing" the existing legal framework and utilizing the public personnel and resources have been commonly performed in the processes of ensuring the security of private sphere. These contradictory practices are summarized by Oryal Ünver as in the following:

> Among the 800 companies existing in this sector, the number of companies which are established providing appropriate security services does not exceed three hundred. We call the other companies as tenderer. These companies enter into the tendering processes by means of the force of intimidation, buying over and the previously concluded [informal] agreements with the public

> officials within the state who are going out to tender. If they win the tender, for instance, they employ fifty people, instead of one hundred [which is the required number of personnel to be employed according to the provisions of the tender]. They share the remaining money for the other fifty people (Cited in Akman, 2010).

This complex, hybrid and ambiguous relationship between the public police and the private security is fruitfully discussed in the field research of Sibel Yardımcı (2009). She argues that this relationship enables the state to penetrate into and take under control of the private security sector. However, for the very reason, the legal framework is blurred because of the informally constituted and operating sphere of private security (ibid: 242).

On the basis of all these, it should be re-stated that it becomes unreasonable to argue that the privatization of security leads to the democratization of social control practices and eradication of state monopoly of violence. In other words, the transformation underway does not create a much more limited state. To the contrary, the ambiguity constituted through legal framework and social practices empowers the capitalist state in an ever authoritarian manner to penetrate into the social body and exercise control over the everyday reproduction of social relations. However, these novel forms of authoritarian governance are structured within a peculiar relationships which reconstruct the processes of social control along the class distinctions. This is the phenomenon that has been institutionalized with the law no. 5188 in 2004.

4.5. CONCLUSION

This chapter has tried to discuss the phenomenon of privatization of security within the context of the neoliberal transformation of the capitalist state in Turkey. This analysis has underlined that the process of privatization of security in Turkey has been a contradictory phenomenon through which the capitalist state has established novel forms of authoritarian governance. The authoritarian restructuring of the capitalist state through private forms of

policing has been determined within the specific historical experience of privatization in Turkey. It has been enabled by not only the politico-legal regime constituted, but also the peculiar informal relationships gradually crystallized before and after 2004. Therefore, the law no. 5188 enacted in 2004 has meant the consolidation of this process for the state.

The authoritarian restructuring of the state, however, has been constituted not in abstraction from the contradictions of its social constitution. Therefore, the entire chapter has tried to strongly emphasize the constitutive contradictory dynamics that established the genesis of private security before 2004 and institutionalized it in the pos-2004 period. In this regard, it has been asserted that though private security, the social control processes in the neoliberal urban space has become to be based on overt forms of class based organization of coercion. Still, such processes have been defined with reference to another fundamental contradiction: policing the poor through the poor. This second side of the coin has revealed that the intended class project of security is crisis-ridden in the sense that it potentially carries the threat of the violence of lower classes, which are exemplified in the recent rising incidents of arbitrary practices of use of force performed by the security guards. All in all, the process of privatization of security has demonstrated that the question of coercion has become more and more embedded in managing the class contradictions in everyday life.

CHAPTER 5

CONCLUSION

This thesis has tried to problematize the phenomenon of the privatization of security in Turkey as a contradictory social transformation through which the alleged impartiality of the capitalist state has been reconstituted. In this final part of the thesis, it seems plausible to draw critical conclusions concerning this particular transformation in Turkey with a quest to rethink the previously made discussions on the literature in Chapter 2, and the modern bourgeois state and the public police in Chapter 3. This analysis would provide a comprehensive account of the theoretical and historical discussions carried out so far. Then, the chapter will try to complement this account with concrete historical findings derived from the case of Turkey in order to clarify how the question of impartiality of the capitalist state has been redefined. The last part of the chapter will raise novel research questions and problematiques as *afterthoughts*, which have arisen during the research and writing periods of the thesis.

The analysis of the case of Turkey forces one to reconsider the dominant perspectives on the issue of private security. For the phenomenon of privatization of security in Turkey cannot be read as a process of democratization of policing or social control practices, as neo-Weberian or institutionalist analysis of "plural policing" has claimed. On the contrary, the processes of de-centralization and fragmentation do not refer to the declining power of the state, but to the contradictory penetration of state power into each and every social sphere. To put in another way, the concrete historical experiences in Turkey have demonstrated that the private security has been incorporated into the institutional materiality of the capitalist state through formal and informal relationships and practices peculiarly defined within the socio-historical context of the country. As a result of this process, the private

security has become not only a central form of everday policing, but also another coercive apparatus suppressing the social discontent.

The thesis acknowledges that the Foucauldian frameworks do provide important means to make sense of the processes and rationalities of privatization in Turkey. They propose a powerful explanatory framework to identify the mediations through which the market rationality has been transferred into the area of security so that the individual is reconstituted as "free and responsible subject" taking care of his/her own security. However, to the extent that they exclude the state and the question of class from the analysis, they are unable to identify the contradictory class character of the transformation in question, and to grasp how the institutional materiality of the capitalist state has been restructured in this very process. As extensively discussed in Chapter 4, the process of privatization of security in Turkey cannot be understood without regard to the constitutive, albeit contradictory, practices of the state as well as the capital.

In fact, the central assertion of the thesis with regard to the existing literature is that their current explanations are conditioned by the way they perceive the relationship among state, coercion, the police and security on historical grounds. In this regard, the thesis has attempted to construct an alternative theoretical-cum-historical framework to understand this relationship. It has been asserted in Chapter 3 that the modern organization of policing in the form of public police was defined within the context of the apparent institutional separation of the state power from the class power. Grounded in *real-and-superficial* distinction between the political and the economic, this separation was ultimately materialized and crystallized in the institutional structures of the modern bourgeois state as a result of the struggles of social classes in the 19th century.

On this basis, the thesis has raised the following objections to the dominant perceptions in the literature on historical grounds. In contrast to the conventional Weberian argument, the issue of coercion cannot be understood with reference to a non-problematised monopoly thesis. That is, without any

regard to the question of class, state-coercion nexus is imprisoned in the monolithic framework of state monopoly over violence, an argument which is both historically questionable and theoretically inconsistent. That is why they disregard the significant phenomenon of the persistence of private forms of policing in the heydays of the modern state. What is historically at stake here was not the question of all-encompassing monopolization of means of violence by the state, but the formation of the public police with a bourgeois character in an allegedly impersonal and impartial form. Therefore, the thesis has tried to underline the constitutive presence of social struggles and class contradictions which were ultimately crystallized and incorporated into the institutional materiality of the bourgeois state in the 19th century. This insistence on struggle and historical specificity of the capitalist state is important to counter recently hegemonic scholarly discussions from another tradition, namely post-structuralist analysis of power as developed within the Foucauldian literature. Against their historical narrative, the rise of the modern police was evaluated as a constitutive aspect of fabrication of a particular social order based on the wage form rather than as an expression of dispersed rationality of liberal governmentality and modern disciplinary power. Thus, it is argued, it cannot be abstracted from the processes of state formation in capitalism.

The case of the privatization of security in Turkey has been evaluated in the light of these theoretical-historical conclusions in an attempt to better grasp how the institutional impartiality of the Turkish state has been reconstituted in this process. First of all, the analysis of the privatization experience in the country demonstrates the contradictory dynamics of state restructuring in the era of neoliberalism. Even though the demands for private provision of security were consistently raised by the capital as well as by some state institutions since the 1970s, the demanded institutional transformation of the state could not be *accomplished* untill 2004. In this process, the contradictory social practices were gradually culminated in the *de facto* constitution of the private security sector, and then transformed the state itself in a substantial manner. The state, of course, was constitutively present in this process, but could not do much other than trying to manage the contradictory operation and proliferation

of the sector. In fact, this referred to the central dilemma for the state: whether to preserve the issue of security as a matter of "confidence" on public power, or as a question of "opportunity" provided to the privileged classes in society. This whole story reaffirms that the capitalist state is not an institutional monolithic entity externally related to the social classes and struggles. To the contrary, as the analysis on privatization of security reminds, it is the material condensation and crystallization of social struggles and contradictions.

The second observation to be made on Turkey is directly related to this point of institutional and relational materiality of state power. As a class project, neoliberalism has meant the restoration of class power of capital at the expense of the labouring classes in the last three decades. In this regard, even the area of security, which has been *traditionally* conceived of an exclusive domain of the state, has become the explicit target of capital. This process, however, has been a contingent one within which different capital groups have attempted to shape it to their own interests by using various formal and informal linkages established with the state. This contingency, however, is not limited to the question of capital accumulation, more specifically to the concerns over making profit out of the newly emergent security sector only. It also included coincidential influences that has ultimately led to the incorporation of a peculiar form of policing into the institutional materiality of the Turkish state within which public and private forms of policing have amalgamated with novel contradictions. The private and public policing have so closely been intertwined that not only *everyday policing*, but also *political policing* has started to be performed through *public-private partnerships*. This in turn redefines the processes of social control with reference to the neoliberal accumulation regime, and thereby with an overt class bias. The thesis has underlined that the contradictory amalgamation of public and private policing forms signals a tendency towards the re-fusion of state and class power now within a capitalist context.

The final remarks are concerned with the fact that the present thesis has remained silent on many important questions which can be legitimately

incorporated into this discussion. The limitations of a masters thesis have prevented these questions to be problematised here. Still these questions and their importance can be underlined as *afterthoughts* and proposals for future critical researches on the issues of private security, capitalist state and coercion.

Firslty, it seems quite interesting to develop much more comprehensive theoretical and practical research on the transformation of class relations through private security. In fact, the thesis has tried to underline that private security refers to a peculiar form of policing which reconstructs class relations in a contradictory manner by embedding the coercion at the heart of them. This is because the lower classes are incorporated into the private security sector and repositioned to ensure daily reproduction of property relations. Still, it is a question that necessitates field research over the class experiences on the part of both security guards as well as those for whom they are providing security services. The following question seems quite important to be raised in this regard: What are the mediations through which the classes make sense of and respond to this relationship in everyday life? How do they see and thereby justify their actions accordingly? What are the social, political and cultural manifestations of this relationship in the specific context of Turkey?

Apart from the class experience of the phenomenon at hand, this particular issue seems to be closely related to a broader theoretical-historical problematique on the relationship between state-coercion-class nexus. To remind once again, coercion was a mere class tool in pre-capitalist societies and it was incorporated into the alleged impartiality of the modern bourgeois state. In the first story, the upper classes themselves engaged in policing processes while the modern police provided an impersonal framework into which the lower classes were incorporated into the policing structure. As discussed, it was one of the ways through which the fabrication of popular consent over the public police was enabled. However, the phenomenon of private security seems to refer to a rather different problematique if one considers that it is mainly organized on the basis of "policing the poor through

the poor". That is, the security of the upper classes is ensured by the lower classes themselves. In fact, Chapter 4 has tried to underline the contradictory manifestations of this phenomenon. However, it still remains a legitimate question to make sense of this broader historical transformation. That is, what does it correspond to exercise practices of policing over the lower classes either as a part of feudal landed class, or as a policeman of the state, or as a security guard? How was/is the class relations experienced in each of the cases? And, do the contemporary transformations mean a kind of *return* to feudal forms of class-based organization of coercion? Or, is there something peculiarly novel in the recent tendency of the fusion of class power and state power? Some of these questions have been discussed within the confines of the thesis, but they do require more comprehensive theoretical and historical research and questionings.

Lastly, the thesis has been silent on the question of the historical specificity of the Turkish state in terms of the questions of the formation of the public police and the permenance of private forms of coercion in the process of the transition from the Ottoman Empire to the Turkish Republic. This particular question requires comprehensive historical research into the phenomenon of the police formation in relation to the nation-state building process in the country. Furthermore, a particular emphasis is needed to make sense of the persistent forms of private provision of security within the context of Turkey.

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