ROUTLEDGE STUDIES IN CRIME AND SOCIETY

Histories of State Surveillance in Europe and Beyond

Edited by
Kees Boersma, Rosamunde Van Brakel,
Chiara Fonio and Pieter Wagenaar

Histories of State Surveillance in Europe and Beyond is carefully curated, essential reading for anyone interested in the history and practice of surveillance in comparative perspective. Against a robust theoretical discussion by David Lyon and Edward Higgs, this volume showcases the work of some of the most exciting new surveillance scholars writing today.

Kirstie Ball, *Professor of Organization, The Open University, UK*

This book places an important marker in the sand, by alerting us to the significance of history. History is important to surveillance studies because institutions, actors and activities in the past shape attitudes and behaviours in the present, and those of the present shape the future. As this book demonstrates, "the state" is a surveillance intensive environment, which differs from one national and institutional context to another – and by recognizing these differences we can start to appreciate the ubiquitous but differentiated and nuanced nature of surveillance. In doing so, this book provides an essential exploration of the intertwined relations between history, the state and surveillance.

William Webster, *Professor, University of Stirling, UK*

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Histories of State Surveillance in Europe and Beyond

Does the development of new technology cause an increase in the level of surveillance used by central government? Is the growth in surveillance merely a reaction to terrorism, or a solution to crime control? Are there more structural roots for the increase in surveillance?

This book attempts to find some answers to these questions by examining how governments have increased their use of surveillance technology. Focusing on a range of countries in Europe and beyond, this book demonstrates how government penetration into private citizens' lives was developing years before the War on Terrorism. It also aims to answer the question of whether central government actually has penetrated ever deeper into the lives of private citizens in various countries inside and outside of Europe, and whether citizens are protected against it, or have fought back.

The main focus of the volume is on how surveillance has shaped the relationship between the citizen and the state. The contributors and editors of the volume look into the question of how central government came to intrude on citizens' private lives from two perspectives: identification card systems and surveillance in post-authoritarian societies. Their aim is to present the heterogeneity of the European historical surveillance past in the hope that this might shed light on current trends.

Essential reading for criminologists, sociologists and political scientists alike, this book provides some much-needed historical context on a highly topical issue.

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1 Introduction

Histories of state surveillance in Europe and beyond

Kees Boersma, Rosamunde Van Brakel, Chiara Fonio and Pieter Wagenaar

Research into surveillance has grown rapidly over the past decades. Scholars have studied surveillance in the context of democracy and democratization, confronting its practices with power, politics and decision making (Haggerty and Samatas 2010). They have sought attention for phenomena such as social sorting, namely the mechanism that sorts people into categories (Gandy 1993; Lyon 2003a), systematic monitoring of people's behavior and communication through information technology (Poster 1990); they have discussed surveillance in the context of privacy (Bennett 2008) and studied the places where surveillance occurs, such as in the workplace (Ball 2010), airports (Klauser 2009; Salter 2008), schools (Warnick 2007; Taylor 2009; Monahan and Torres 2009), mega-events (Samatas 2007; Bennett and Haggerty 2011) and the urban space (Norris and Armstrong 1999; Koskela 2000; Gray 2002). They have also demonstrated that the outcome of surveillance can be a commodity and may result in an economy of personal information (Gandy 1993; Andrejevic 2002; Pridmore and Zwick 2011) and that we can contribute to our own surveillance by posting personal information on the internet (Albrechtslund 2008).

Various metaphors have been used to underpin the all-compassing character of surveillance practices such as the Panopticon (referring to Bentham and Foucault), Big Brother (Orwellian references), the electronic superpanopticon (Poster 1990), the panoptic sort (Gandy 1993), the (maximum) surveillance society (Marx 1985a; Norris and Armstrong 1999), surveillant assemblages (Haggerty and Ericson 2000) and liquid surveillance (Bauman and Lyon 2013). From these studies the picture emerges that nation states have the tendency to grow towards *surveillance societies* (Lyon 1994; Wood *et al.* 2006) whose characteristics vary from place to place and for which we need "empirically informed relational studies of the multiple, hybrid and conflicted nature of places, whose characteristics can then be followed outwards" (Wood 2009: 189). A surveillance society is characterized by increased investments in bureaucracies and techniques to systematically – and over longer time periods – collect, store and use information.

For Giddens, surveillance is an inherent part and a consequence of processes of modernity (Giddens 1985). In line with this argument, Lyon (2001) gives a definition of surveillance that reflects the rational modernistic thinking behind it:

"*any collection and processing of personal data, whether identifiable or not, for the purposes of influencing or managing those whose data have been garnered*" (2; italics added). Managing personal data implies a control perspective. While surveillance as a concept is contested (Fuchs 2011), we argue with Haggerty and Samatas (2010) that it involves "assorted forms of monitoring, typically for the ultimate purpose of intervening in the world" (2). Although in this book we explicitly draw attention to the – historically grown – power dimension and (coercive) forces of surveillance, we do recognize that surveillance has another caring or empowering dimension too (Rose 2000; Koskela 2004; Marx 2009; Lyon 2009; Monahan 2010). Most importantly, however, for us surveillance is a powerful "empirical window" through which we can witness how people and their data doubles are being processed, monitored and controlled (Jenness *et al.* 2007).

Surveillance practices have the tendency to expand and their techniques are often stretched and twisted, a mechanism known in surveillance studies as *function creep* (Marx 1988; Lyon 2007: 53). Gary T. Marx (1988: 387) once argued:

> Asking questions about the process of surveillance creep and possible latent goals should be a central part of any public policy discussion of surveillance before it is introduced. Beyond determining if a proposed tactic is morally and legally acceptable, works relative to alternatives and can be competently applied, it is appropriate to ask, once the foot is in the door, where might it lead?

This is true: we often read in the newspapers that new technologies cause ever-deeper central government penetration into our private lives. By means of the technologies personal data of citizens can be gathered, stored and analyzed at a scale that was unknown before.

The main cause of this development is, reputedly, the worldwide stress by nation states on countering terrorism following the attacks that took place in the US on 9/11 (Ball and Webster 2003; Wood *et al.* 2003; Torpey 2007; Bigo and Tsoukala 2008). Yet, this dominant discourse raises the question: does such a mono-causal relationship indeed exist? Or are there other, more structural roots for increasing surveillance? Already in 1993 Gandy argued that "The panoptic sort is a technology that has been designed and is being continually revised to serve the interests of decision makers within the government and the corporate bureaucracies" (95). In other words, the process of systematic data gathering started long before the recent Global War on Terror. And although David Lyon (1994) asserted that "indeed part of what we must examine is the relatively long history of the 'surveillance society'" and "Today's situation cannot be understood without reference to the long-term historical context" (4), systematic historical studies into surveillance societies are fragmented.

In this book we focus mainly on how surveillance has shaped the relationship between the citizen and the state, notwithstanding that other analyses and socio-cultural dimensions are relevant. For instance, surveillance by private companies

such as in consumer surveillance (Pridmore and Zwick 2011; Zurawski 2011), horizontal practices of surveillance carried out within modern and social media (Andrejevic 2007; Fuchs *et al.* 2012), or surveillance by citizens such as in participatory (Albrechtslund 2008) and lateral surveillance (Andrejevic 2005), go beyond the scope of this edited volume but are nonetheless key aspects of the "surveillance society." While in the past few decades the private sector increased their surveillance practices, in the public sector, government surveillance – as the recent National Security Agency (NSA) surveillance program has shown – is still paramount to situate the socio-cultural context in which surveillance has flourished.

Historically, state surveillance is not the only form of top-down monitoring (state-citizen) but we believe that looking through the lens of the "information state" helps gain a perspective on the milieu that has facilitated the normalization of surveillance (see also Dandeker 1990). In doing so, we do not suggest simplistic path-dependency explanations. The historic roots of some surveillance practices have not always paved the way to new practices, nor are they intrinsically related to current approaches. However, a historical perspective on surveillance opens the door to a complexity of crucial cultural matters, as Lyon explains in this volume.

We look into the question of how central government came to intrude upon citizens' private lives from two perspectives: identification card (ID-Card) systems and surveillance in post-authoritarian societies. We acknowledge that state surveillance did not start with ID-Cards but identification systems have become a hallmark of modern states (Caplan and Torpey 2001). The identification of citizens is one of the key methods by which states have become "modern" and have implemented a rational method to know, classify, register and track citizens. The ability to identify individuals, to make them "visible," is inextricably linked to surveillance. Our goal is not to explore a history of identification practices but rather to understand the historical contextualization of ID-Cards in European and non-European contexts.

The second *locus* of analysis is a specific reference to post-authoritarian societies. This perspective is almost inevitable when analyzing contemporary history (Webster *et al.* 2012). Both in Europe and elsewhere, authoritarian and totalitarian regimes have exploited power dynamics in order to implement surveillance and control over the population. In some contexts, surveillance has permeated the relationship between the state and the citizen well beyond the end of authoritarian regimes. We argue that it would be misleading to analyze these post-authoritarian societies along the lines of "surveillance societies" which have not experienced a transition to democracy. Once again, history and socio-cultural aspects matter and deserve specific investigations which should not only be framed within the "legacies" argument. North European countries, for instance, do not share the weighty surveillance past of their Eastern and Southern neighbors. Our aim here is to represent the heterogeneity of the European historical surveillance past without suggesting patterns of continuity, but rather specificities and controversies that might shed light on current trends.

1.1 The drivers behind government surveillance

The political scientist Samuel Finer once wrote: "government started only yesterday." In the past central government could not directly penetrate into citizens' private lives very deeply. It always needed intermediaries – with their own agendas – to do so. But since the late nineteenth century central government can. According to Finer (1997), five technological parameters are responsible: information technology, movement, energy technology, bureaucracy, and wealth. Information technology is the most dynamic parameter. It includes the storage and transportation of large amounts of data in *technological mediated* worlds as Ball and Webster (2003) call it. Central government received enormous penetration possibilities through its use (Finer 1997: 1610–1611). It should be noted however that although central government does penetrate into citizens' lives, governments and the architecture surrounding technologies are made up of an assemblage of actors (see Haggerty and Ericson 2000), which each have their own motivations or desires that play an essential role in how surveillance is governed. Therefore, it is essential to study the plethora of drivers behind government surveillance.

Higgs (1997, 2001, 2004) is one of the very few who actually has conducted systematic research into what the drivers behind "the information state" are. In his book *The Information State in England: The Central Collection of Information on Citizens since 1500* he finds that in Britain it was not the war or terrorism per se that brought enduring central government penetration ("Big Brother") into private citizens' lives, but rather the welfare state ("Soft Sister") and its information-gathering needs. In this process, paradoxically, Higgs argues, the information state is as much about winning consent via the provision of benefits as repression in the interests of elites. He argues that the state in England has always been an information state, but the nature of the state has changed dramatically. The effects of the welfare state on surveillance practices are maybe even more far-reaching than Big Brother effects and in the discourse on surveillance are often overlooked or underestimated. For example, social workers used technological developments to gather and store enormous amounts of data that they thought were needed to work with children and families (Garrett 2005). Higgs' main argument is that Soft Sister surveillance has a lasting effect, whereas Big Brother's has not.

In line with Giddens, Higgs argues that state information gathering can be seen as an important force behind the expansion towards modernity. While Higgs writes about the *information* state his contextualization in terms of information collection, dissemination, preservation, privacy, coercion and so on (Weller 2010) makes the concept overlap with the concept surveillance society. After all, the increased bureaucracies and modern technologies for information storage enabled the central government to continue what they have been doing – monitoring citizens – but in a much more efficient way (Webster 2012).

In this book we envisage taking Higgs' thesis, which is based on research specifically on the English State, as a starting point to understand the surveillance history outside of Britain. It aims to answer the question of whether central

government has actually penetrated into the lives of private citizens ever deeper in various countries inside and outside of Europe, and whether citizens are protected against it, or have fought back. How far has government increasingly penetrated into our private lives? What have been the constraints it had to deal with, and how effective have these been? How far have citizens gained autonomy? And, most importantly, what have been the drivers behind the phenomena under study? Is it "Soft Sister" mainly, as in Britain? Or does "Big Brother" also play an enduring role? Historical research will be the approach adopted by this volume to provide answers to these questions, and in the first and second part of our book we try to find these answers.

1.2 The history of surveillance and the indentification card system

That the drivers mentioned above shape the way in which technologies are implemented in society does not mean that the technology itself is not an active participant. "Things do things"; technologies have agency, they mediate our actions and our perceptions of the world (Verbeek 2005); technologies embody specific forms of power and authority (Winner 1986); technologies can behave in certain unexpected ways. Latour (2000) argues that technologies may resist their human adaptations and coding. Hence, technology, and, in particular, information and communications technology (ICT), plays a vital role in building surveillance societies (Marx 1985b; Beniger 1986; Castells 2000; Headrick 2000; Parenti 2003), and an exploration of surveillance practices should involve a reflection on the technologies that are in use to enable the systematic collection of data (Marx 2002).

In surveillance studies several studies have paid specific attention to the technology and its consequences. For example, since the early 1990s, when closed-circuit television (CCTV) cameras began to appear in the urban space, first and foremost in the UK, surveillance scholars tried to understand the intended and unintended consequences of the technology (Norris and Armstrong 1999; Webster 2004; Doyle *et al.* 2011). Others focused on biometrics (Van der Ploeg 2003; Magnet 2011), Geographical Information Systems (Monmonier 2004), technology-led policing (De Pauw *et al.* 2011), radio-frequency identification (RFID) tracking in hospitals (Fisher and Monahan 2012), and the internet and its transformation into an interactive social media platform (Fuchs *et al.* 2011). Finally, recently, increasing attention is being paid to the possibilities of gathering and storing data on an expanding scale in the context of big data surveillance (Zarsky 2011) and, for instance, in the context of Department of Homeland Security (DHS) fusion centers (Monahan and Regan 2012).

Many possibilities which technology offers are never realized, because its social environment proves to be prohibitive. Yet, on the other hand, there is also "technological seduction" and – again – *function creep*: using technology to fulfill unforeseen functions because the technology just happens to be there. Therefore, in this book we will make an attempt to open the black box of

surveillance technology by focusing on one dominant surveillance technology: the *Identity Card* (ID-Card). After all, in Higgs' book it is *that* technology which is taken as a kind of hallmark of Big Brother penetration (Higgs 2004: 134–144).

It has been recognized that the ID-Card system is among the most intruding instruments of surveillance societies (Lyon 2003b; Bennett and Lyon 2008; Lyon 2009; Haggerty and Samatas 2010). Identification cards are the materialization of national identification systems, which

> have been proliferating in recent years as part of a concerted drive to find common identifiers for populations around the world. Whether the driving force is immigration control, anti-terrorism, electronic government or rising rates of identity theft, identity card systems are being developed proposed or debated in most countries.
>
> (Lyon and Bennett 2008: 3)

Not surprisingly, scholars have studied how ID-Cards currently play a role in different countries (see e.g. Kim (2004) on South Korea; Cavlin Bozbeyoglu (2011) on Turkey; Arora (2008) on Europe; Beynon-Davies (2006) on the UK). Whereas Bennett and Lyon in *Playing the Identity Card* (2008) put the card in the context of political cultures and the structural configurations of the state, this book positions ID-Cards – as technologies – in the historical question of how surveillance states came into being.

Historically speaking, ID-Cards are a decisive phase in the state's attempt to identify its citizens (Caplan and Torpey 2001; Beckenridge and Szreter 2012; About *et al*. 2013). ID-Card systems, in order to function, include large databases and the storage of personal data, such as an individual's full name, age, date of birth, address, portrait photo, identification number, profession, religion, ethnic or racial classification, citizenship and – if deemed necessary – restrictions. The features of high-tech ID-Cards today, with built-in chips and biometrics, raise concerns and lead to heated debates in various countries where such cards have been introduced. ID-Cards are part of the broader trend towards intensified surveillance, although the impact differs from place to place, due to local legal and cultural mechanisms (Bennett and Lyon 2008). It is the ID-Card, perhaps more than other surveillance technologies, that challenges civil liberties and human rights (Khan 2006).

Yet, instead of just presenting the technology of ID-Cards as one of the drivers of surveillance, we want to present the technology in (historical) context, because technology only becomes something when it is "enacted" in actual practices (Orlikowski and Robey 1991). The degree to which the original intentions of ID-Card technology are actually realized is dependent on the "practices" in which it functions.

That is why, in the third part of the book, we present, *inter alia*, in-depth empirical accounts for different countries about the way ID-Cards came into being, how they played a role in surveillance societies, and how they were debated and became contested.

1.3 Structure and content of the book

While the history of surveillance practices has been explored by several authors (*i.a.* Andrzejewski 2008; Hannah 2010; Breckenridge and Szreter 2012; About *et al.* 2013), the attempts to look at both government surveillance and more specifically at post-authoritarian contexts comparatively are more limited and fragmented (Webster *et al.* 2013). In this volume we aim to look at different European and non-European countries comparatively through the *fil rouge* of (re) shaping the citizen–state relationship through surveillance.

We have divided the chapters into three different parts to offer the reader some thematic synergy. The division represents the *loci* of analysis explained above, namely post-authoritarian societies and ID-Cards as surveillance tools.

The first part, "Theory and Perspectives," sets the agenda by providing understandings of the underlying, historical mechanisms of surveillance societies. In Chapter 2, Edward Higgs presents a critical examination of his concept of the information state. Looking back on his 2004 publication he poses the question: What would he have done differently? What progress has the study of the information state made since his seminal work appeared? And what, therefore, are the important questions this work needs to address? First, the concept of the state used in his 2004 publication was too monolithic. Instead, he argues, the state is an assemblage of individuals, organizations and interests that draw on a particular kind of authority in their activities. It is, therefore, rather a space of contestation than a "thing" – hence the uneven, and sometimes contradictory, development of information gathering. Second, in the recent past the state's capacity for information gathering has come to be rivaled by commercial organizations, which now provide the technology and business models used by the state in this field. Do we need to think, therefore, of "information complexes" rather than of "information states"? In Chapter 3, David Lyon focuses on the relevance of the historical development of surveillance which has often been neglected vis-à-vis an obsession for analysis of technological change. He argues that an historical perspective is vital to surveillance studies as it sheds light either on the development of surveillance practices or on purposes of surveillance. The author also draws attention to surveillance culture, namely how we live and negotiate surveillance, privacy and visibility. Situating surveillance in the context of culture, history and ethical evaluations is thus key to understanding complex socio-technical practices.

The contributions to Part II, "Big Brother surveillance in the twentieth century in different countries," focus more on the particularities of different surveillance histories. The authors touch on the main subject: What are the drivers of surveillance in different countries? Higgs wrote in his book about historically grown surveillance mechanisms in England. In this part we aim to present surveillance histories of different countries inside and outside of Europe to see whether the same mechanisms apply elsewhere. Part II touches on countries which share a common feature: they are all post-authoritarian surveillance societies. In countries like Greece, Portugal, Italy, Brazil as well as in Central and Eastern European

states, despite socio-cultural and historical differences, state intervention was characterized by specific power dynamics that, in some cases, did not fade away with the end of the dictatorship. The drivers of state surveillance in these countries, thus, may differ from other European and non-European contexts but they are nonetheless significant to look at, for at least three reasons.

First, they offer a view on Big Brother surveillance that it is, more often than not, intertwined with the Soft Sister "approach." In other words, in post-authoritarian countries the gaze of Big Brother (i.e. dictatorships which relied on repression and surveillance) went hand in hand with population management and information-gathering needs (the welfare state) whose legacies are yet to be fully understood. Second, the surveillance history of a specific country is sometimes weighty and needs to be taken into account in order to grasp both continuities and discontinuities. An understanding of the past and its legacies may shed light on contemporary perceptions of surveillance, resistance and/or resilience to surveillance, as well as on notions of privacy. Third, as argued by Haggerty and Samatas (2010: 5), the most repressive forms of state surveillance did not necessitate cutting-edge technology in order to orchestrate control. Despite the fact that not all post-authoritarian countries relied on sophisticated technologies, the penetration of fear and of an overall culture of suspicion were deep and long-lasting. Therefore, the above-mentioned countries offer the opportunity to analyse not only the transition to democracy but also the transition from non-technological to technology-based surveillance.

In Chapter 4, Minas Samatas describes a post-authoritarian surveillance society with a painful surveillance history and negative surveillance legacies: Greece. He follows the Greek information state from the interwar period – with its strong emphasis on fighting communism – through the period of military dictatorship (1949–1974). The lasting impact and legacies of anti-communist surveillance have had detrimental effects on state–citizens' relations in post-dictatorial Greece, Samatas finds. In Chapter 5, Helena Machado and Catarina Frois describe a South European country with an authoritarian heritage as well: Portugal. They find that despite this heritage citizens comply passively with the state's requirements of collecting personal identification data, even though several studies suggest that public confidence in the state, the police and the justice system is weak. In Chapter 6, Chiara Fonio and Stefano Agnoletto write about controversial aspects in post-fascist Italy with a focus on both the legal framework and the socio-cultural domain. In doing so, they investigate patterns of continuity and discontinuity through an emphasis on methods of social control which stretched well beyond the end of the regime.

In Chapter 7, Ola Svenonius, Fredrika Björklund and Paweł Waszkiewicz describe the socialist states in Central and Eastern Europe (CEE) which knew extreme surveillance societies. Highly secretive and extensive information systems aimed at the control and subjugation of entire populations were a defining characteristic. Surveillance practices such as infiltration, mail interception and wiretapping were integral aspects of everyday life, although large differences in scope and efficiency existed between the different societies. The societal practice to deal with

the heritage of socialism through the vetting of people in public offices has become known as *lustration*. Lustration is an act of dealing with the history of surveillance – it is also an act of surveillance in itself. This chapter takes the phenomenon of lustration as a point of departure to look back on surveillance during communism. It focuses particularly on Poland, where lustration has followed a rough path.

The final chapter of Part II concerns a country outside of Europe. In Chapter 8, Ricardo Medeiros Pimenta and Lucas Melgaço write about surveillance practices at universities during the military regime in Brazil (1964–1985). They show how the dictatorial regime brought with it a complex and comprehensive surveillance structure that included ramifications at the university context. Professors, staff and students who were considered "subversive" were closely monitored. Data was constantly gathered, organized, classified and shared within a surveillance network instituted by the military. The chapter ends with a discussion about the current stage of surveillance at universities in the post-totalitarian period.

Part III, entitled "ID-Cards as a surveillance method to govern societies," deals with the history of ID-Cards – Higgs' hallmark of Big Brother penetration – in various countries. The main question we want to answer in this part of the book is how endurable Big Brother penetration really is. The outcome of Higgs' study in the UK is that Big Brother instruments are implemented and used at times when the state sees a need for it. Yet, they ebb away after the urgency is over. Do we see the same tendency in other countries?

In Spain, Gemma Galdon Clavell and Pablo Ouziel (Chapter 9) claim, it was Francisco Franco, the country's *generalísimo* between 1939 and 1975, who introduced the first effective identity card scheme in the post-civil war period. In spite of its controversial past – and contrary to what Higgs finds for the UK – the Spanish DNI has managed to gain acceptance among the population, and not only is its constant use unquestioned, but Spain is one of the countries to have invested more resources in the development and introduction of biometric, electronic IDs (e-IDs) in Europe – without any significant public debate or opposition.

In the North-West of Europe it was Big Brother – German occupation – that caused the introduction of ID-Cards as well, as Friso Roest, Johan Van Someren, Miek Wijnberg, Kees Boersma and Pieter Wagenaar show in Chapter 10. Writing about The Netherlands, and using Kingdon's agenda-setting model as a theoretical angle, they show how it was Nazi occupation that finally opened the "policy window" for which Dutch "policy entrepreneurs" had been waiting so long. After the war – and in line with Higgs' findings – introducing an ID-Card became a political impossibility, but at the start of the twenty-first century the policy window opened again. And again it was Big Brother who was the main driver for introduction. At first glance, the German occupation during the First World War seemed responsible for the introduction of the ID-Card in Belgium, as Rosamunde Van Brakel and Xavier Van Kerckhoven show in Chapter 11; however, looking more closely, other hypotheses emerge about the motivations for its implementation after the War. This chapter offers the first academic

exploration of the drivers behind the emergence of the ID-Card in Belgium but also in Belgian colony Rwanda, and provides an analysis of how suggested paradigms in the surveillance studies corpus can contribute to a better understanding of this practice.

In Chapter 12, Scott Thompson's findings on the ID-Card in Canada also closely mirror Higgs'. In his review of Canada's experience with National Registration from 1919 to 1953, Thompson finds that ID-Cards were used for wartime mobilization, and were abolished shortly after the two World Wars. Yet he devotes more attention to the social sorting aspect of surveillance than does Higgs. Thompson argues that the selection of men who were to be called into service in the Armed Forces during the First and Second World Wars furthered a particular social order in Canada – asserting who was considered to be "necessary" within Canadian society, who was "available" to be called into military service, or who was "unworthy" of participation in the war effort. Although it was the necessity of producing soldiers for the war effort that drove the government's conscription effort, it was notions about the desired social ordering of Canadian society which required the highly complex identification, classification and social sorting technologies of a National Registration program.

Finally, in Chapter 13, Edgar Whitley, Aaron K. Martin and Gus Hosein pick up where Higgs left off. They reflect on the National Identity Scheme that was abandoned in 2011 in the United Kingdom. This scheme was the third major attempt in the UK since the First World War to introduce a national identity card program. The chapter thus accounts for the life, death, and afterlife of the latest attempt at implementing a national ID-Card in the UK.

This edited volume is completed by an Afterword, written by Gary T. Marx, one of the "founding fathers" of surveillance studies. In his contribution Marx offers a conceptual framework to organize the divergent and common social structures and processes documented by the chapters in this volume, identifies variables needed for explanation, and suggests some "meta-method moral mandates" for advancing an understanding of surveillance.

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Part I

Theory and perspectives

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2 Further thoughts on *The Information State in England … since 1500*

Edward Higgs

It is now a decade since I wrote much of the text of my book *The Information State in England … since 1500* (Higgs 2004a), which explored the central collection of information on individuals by the English state over half a millennium. The invitation to participate in this collection has therefore given me an opportunity to take stock of that work. Much of what I argued there, especially regarding the complexity of the history of state surveillance, still seems to me to have been justified. As I argued in the book, not all state information gathering is sinister, or even very intrusive, although other aspects seem increasingly to be problematic. I still believe that the modern 'Information State' was not a product of the Industrial Revolution, and that some aspects of surveillance and information gathering in England before 1750 were far more intrusive than that of today. Similarly, I still believe that the centralization of information in government did not necessarily reflect new state functions but the decline of local forms of governance. However, with the passage of time, new research, and changing circumstances, I would now treat some of the terms in the book's title rather differently. These terms are 'Information', 'State', 'England' and 'since 1500', leaving perhaps only 'the' and 'in' un-revisited. This is not a rejection of anything that was written in *The Information State in England*, but only a recognition of ways in which the arguments therein could be taken further, or at least placed in a broader, and less rigid, framework.

My contribution to this edited volume will mainly be concerned with examining more closely what is meant by 'Information' and the 'State', but the other terms in the title also need some further consideration. The decision to date the volume from 1500 was a pragmatic one on my part, since it was already stretching credulity to attempt to look at the development of the English Information State over a period of half a millennium. Taking the *longue durée* was an ambitious, perhaps foolhardy, strategy, especially in such a short book, but was necessary in order to engage with some of the sweeping sociological arguments of the likes of Anthony Giddens (1987) and Christopher Dandecker (1990). However, it is plain that the English state did not suddenly transform itself in the early sixteenth century, as historians such as Sir Geoffrey Elton (1953) used to argue. As Michael Clanchy (1979) has shown, English governance was based on information, as well as brute force, in the medieval period, and the recognition of this

further undermines any belief that official information gathering is a feature of modernity. The latter argument was one of the main targets of *The Information State in England*, and all the work I have done since its publication (Higgs 2011) convinces me that this sociological model of historical change is unhelpful, or, better still, downright wrong.

Similarly, I now have qualms about attempting to confine an examination of the Information State solely to 'England'. The Principality of Wales was plainly part of the 'English' realm, and was in some ways more closely integrated into central government in the early modern period than some royal apanages, such as the Duchies of Cornwall and Lancaster. Similarly, much of the later sections of *The Information State in England* included passages relating to certain aspects of the Kingdoms of Scotland and Ireland, and refer to that rather odd, shifting, and increasingly misnamed, administrative agglomerate, the 'United Kingdom'. Ireland and Scotland are plainly separate nations, and had, and have, their own administrative and legal structures, but more needs to be done to show how their official information gathering was influenced by English models. For example, the story of the Scottish census is intimately bound up with that of England and Wales, and was indeed administered from London until 1855, at which date a separate Scottish General Register Office was established.

Above all, the story of British state information gathering needs to be placed in the context of the development of the British Empire. In much of *The Information State in England* I was concerned to argue that what was interesting about the central collection of information in Britain was the relative unwillingness of government bodies to undertake it much before the twentieth century. Even then, I placed more emphasis on the decline of the local, decentralized state after 1900 than on the increasing power of the centre (Higgs 2004a: 194–205). Although, as already noted, I still believe that there is much truth in this argument, I think that I failed to grasp how the British in the Victorian period were already laying the foundations of much more extensive forms of surveillance in their Empire. After all, the systems for recording the details of convicts in England initiated by the 1869 Habitual Criminals Act were related to those already established in Australia. Indeed, it was the cessation of transportation of convicts to the Australian colonies, and its replacement by imprisonment at home, that led to the introduction of such systems (Higgs 2011: 109–110, 123). Similarly, fingerprinting was a technology that originated in British India, and was imported into passbooks for native South Africans, before being introduced into the Metropolitan Police in London in the Edwardian period (Higgs 2011: 132–138). The relationship between the Information State in England and that in its Empire has still to be explored properly, but one might argue that modern methods of surveillance in the West reflect the importation into metropolitan societies of the methods formerly used to control colonial peoples.

Looking back at *The Information State in England* I am also surprised at the lack of an attempt to formally define 'information', or to examine some of the implications of that term. Instead, the book proceeded by describing a series of processes by which records relating to individuals and groups were created, and

found their way into the organs of central government. In a book designed to 'give the beast a shape' this empirical approach was understandable, and indeed perhaps astute, but it may also have led to the omission of certain facets of the 'beast' in question. Information gathering has had a very long history, and if one defines 'information' loosely as 'symbolic content which when exchanged in space and time between entities has meaning for them', it is plain that information has a history almost as old as civilization itself. Information is, in fact, a key part of the communicative processes that constitute all civilization (Giddens 1987: 47).

The field of Information History is as yet ill defined, although a start has been made in the innovative work of Toni Weller (2008, 2011), but might cover the following:

1 The 'symbolic content' of information – the history of 'language' (including syntactic, artistic, and other aspects), through its many manifestations, such as the language of smells, of flowers, of chivalry, and so on.
2 The processes of information exchange in history. These might include the following:
    a techniques of information transmission over space – postal services, couriers, telegraphs, telephone, the internet, and so on – and the processes of innovation within them, including issues of control and overload;
    b techniques of information transmission over time – libraries, archives, websites – and their impact on human culture;
    c techniques for curtailing information flows – how information flows are restricted in order to prevent limited human processing power from being overwhelmed.
3 The history of relationships among informational 'agents' – entities such as institutions, human beings, machines (e.g. computers) – between which information passes. This might include power relations between such entities – coercive demands made to individuals for information by states and commercial companies; issues of privacy and autonomy; the secret interception of information – code breaking, phone tapping; and the prohibition of certain forms of informational exchange (censorship, attempts to ban particular languages).
4 The history of meaning – hermeneutics, and the exploration of the differing cultural and historical understandings of the concept of information.

From this broader perspective, *The Information State in England* may be seen as somewhat narrow. Very little consideration was given in the work to languages other than the alphabetical and digital, although this is understandable given the need for the state to store information – smells and flowers are not very useful ways of conveying symbolic meaning over time. However, more may have been said about the development of techniques and technologies of information

exchange and handling. The increasing centralization of information in the nineteenth and twentieth centuries would have been impossible, for example, without the creation of the British postal system, and this in turn depended on better roads, and above all the railway.

The Victorian census, for example, was only feasible because the General Post Office could distribute millions of forms and instructions to localities, and because the localities could return the millions of completed household and enumerators' schedules to the Census Offices in London and Edinburgh. This process was formalized in the London General Register Office (GRO) by the printing of standard labels for posting such forms.[1] The new postal service was also dependent upon a vast process of attaching addresses to buildings, something that was going on across the developed world (Higgs 2005: 66; Tantner 2007). This process of creating information infrastructure was globalized by the establishment of the International Postal Union, and the expansion of the telegraph system. This, in turn, facilitated the creation of global empires such as the British, and the world information hegemony of the latter (Headrick 1991). The role of the telephone and internet in decentralizing information, or indeed creating its demise through data degradation, software obsolescence, or increasing informality of business practices, has barely been considered by historians (Higgs 1998). States, and indeed individuals, may twitter but will their song carry any great distance in time? The relationship between new technologies of communication and forms of social activity is, of course, a complex one, and not unidirectional.

In the same manner, although *The Information State in England* saw the Information State as a store of information, it gave little attention to the actual storage and retrieval of information within it. Although historians of the medieval period have long been concerned with the creation of archives and libraries, and the physicality of documents, modern historians have tended not to concern themselves with such mundane matters (Higgs 1997: 136–144). It is very difficult to imagine the creation of a 'Filing Cabinet Society' as a contemporary analogue to the Pipe Roll Society that was set up in 1883 dedicated to the study of the account rolls of the medieval English Exchequer.[2] *The Information State in England* did make reference to the creation of places of deposit around the law courts in the nineteenth century, and to the problems of retrieving information from Victorian criminal registers, and, at more length, to the rise of the 'Database State' (Higgs 2004a: 80–81, 95–97, 171–187). However, such references were either only made in passing, or dealt more with the contents of data storage devices than with the implications of their operations, capacities and deficiencies.

At one level this reflected a conscious decision to avoid accusations of technological determinism but more needs to be done along the lines of the work of Jon Agar's *The Government Machine: A Revolutionary History of the Computer*, which examines the effect of computing on the British Civil Service, and vice versa (Agar 2003). How and why, for example, was the paper filing system, which has been taken over into the iconography and conceptualization of

computer storage, developed? One might imagine that this was because of its superiority in terms of storage and retrieval over Victorian letter books, in which clerks copied in and out letters, and the ability of doing business through circulating and annotating files. However, anyone who has tried to use the horrendous file retrieval system for the Victorian Treasury Board Papers, the forerunner of many subsequent Civil Service filing arrangements, now held at the National Archives in London, may have their doubts.[3] Here, a complex system of chronological registers, and departmental and subject indexes, seems more a method of restricting information to a small number of filing cognoscenti than an easy manner of access.

In addition, *The Information State in England* assumed that the main impact on state activities through information collection was that it provided modern government with evidence of external reality via which it could make objective policy decisions. However, information collection may also be understood as constituting that reality in a narrow form. This may be seen in the case of the bureaucratic form. Comparatively little work has been done on this subject in the British context, and one of the few sets of forms studied in depth have been the nineteenth-century census schedules for England and Wales development by the General Register Office (GRO) (Higgs 2005). What emerges from this analysis is that the forms, and the associated instructions issued to householders on how to insert data into them, enabled the GRO to control its interaction with the public. Census forms:

> reduced communication with citizens to the exchange of information – the GRO permitted only certain information to be considered 'relevant', and defined its meaning:
>
> - standardized exchanges so that information flows become predictable and, therefore, more easy to handle;
> - reduced the amount of information entering the GRO, so matching it to the internal resources available for its processing – vital when the increasing volume of information gathering threatened to overwhelm its manual analysis techniques.
>
> (Higgs 2011: 67–83)

This process of information truncation, following the arguments put forward by Nicklas Luhmann (1995), not only allowed the GRO to undertake its census task but also determined what it found. Thus, the instruction in the Victorian period to ignore anything but regular work when giving occupations changed how economic life was understood – casual, seasonal and opportunistic work tended to be ignored. Instructions about the need to place clerical workers in the industries in which they worked, rather than according to their function, hid the size of the tertiary economic sector. Instructions to use terms such as 'Lunatic', 'Idiot', Imbecile' and 'Feeble-minded' influenced how people understood mental illness and mental disabilities. This truncation of communication allowed the GRO to

establish working hypotheses as to the nature of its external social environment, and so underpinned purposeful state intervention in society. But because this hypothetical reality was based on truncated information flows, it was partial, if not skewed. Interventions in society based on such data gathering were likely to have unforeseen results. Forms, and the picture of society based upon them presented in official publications, may also have affected how society saw itself, and how society saw the state in terms of 'paper-pushing'. This 'double hermeneutic' may have changed the environment within which the state acted (Hacking 1986: 222–236). For example, the neglect of the casual work of children in the census may have helped to make such work appear abnormal, and so led to a failure to grasp the impact of compulsory education of children introduced from the Education Act of 1870 onward on working-class budgets. This failure then necessitated the creation of the post of truant officer to enforce school attendance (Davin 1996). This approach to information gathering might be extended to other types of forms.

Thus, the introduction of cause of death on death certificates in civil registration in 1837 encouraged the understanding of mortality in terms of pathogens rather than humoural medicine. Rather than illness being caused by external factors (e.g. heat, cold, diet, stress, work, exhaustion) affecting the balance of the four humours in the body, doctors had to indicate specific illnesses or diseases (e.g. influenza, cholera, 'zymotic' diseases, cancer, and so on). This meant that illness and death could be seen in terms of specific pathogens that could be removed from the environment by sanitary reform, rather than as conditions caused by broader social and economic factors that might require deeper change to society (Higgs 2004b). Similarly, the routine, central collection of income tax and estate duty via forms in the Board of Inland Revenue in the late nineteenth century led to the development of a particular, narrow concept of wealth and contributions to well-being in the Board of Inland Revenue's Statistical Department, and in the national wealth accounting of the likes of Bernard Mallet, Josiah Stamp and Arthur Bowley. This helped to establish the idea that the work of women in the home was 'unproductive' (Mallet and Mallet 1913; Stamp 1916; Bowley and Hogg 1925). Yet again, the systematic collection of information on employment and unemployment via the stamped books introduced under the 1911 National Insurance Act constrained the subsequent understanding of unemployment and underemployment. All this indicates that the Information State was not only involved in the 'collection' of information, as the subtitle of *The Information State in England* put it, but also in its demarcation.

It should be noted, however, that this information truncation, and the issues that arise from it, are not something unique to the organs of government. This is not just 'Seeing like a State', as James C. Scott put it in the title of his important critique of state 'schemes to improve the human condition' published in 1998. Information truncation can allow any organization to ignore information other than the 'bottom line' – what makes a profit in business, as well as what conforms to rules in bureaucracies. Forms that filter information coming into organizations are found in the commercial sector, as are selection tools such as the

World Wide Web. Similarly, the history of tact and etiquette reflects various strategies to prevent certain sorts of information from being consciously used, which, in turn, makes social intercourse possible. Anyone working as a 'knowledge worker' will also recognize the continuous narrowing of disciplinary domains – 'knowing more and more about less and less' – which allows intellectual discourses to proceed in a world of infinite information but at the risk of divorcing one from practical knowledge. Indeed, Scott's book is not really about the state at all, but 'Seeing like an Expert', with all the myopia that results. Hence, his critique of 'Scientific Agriculture' may be applied equally to the Corn Belt of the USA as to the collective farms of the Soviet Union (Scott 1998: 294–304).

But what exactly was the nature of this 'State' that gathered, or truncated, information? *The Information State in England* tended, I believe, to theorize the 'State' (with, or without, a capital 'S') as a single entity that collected information, and acted on it in some logical manner. This approach came, no doubt, out of the attempt to grapple with some of the aspects of sociological theory with which the work began. It also enabled the use of a shorthand that elided complexities in a brief account. However, the actual description of the development of the 'Information State' in the book belied any simple reduction of history to such a simple model. Rather, this, and subsequent research, reveals that the 'State' was as much a place of contestation as a thing, where differing groups, professional interests, political parties and individuals struggled to forward their own agendas by associating themselves with the historic authority of the Crown, Law or Constitution. In this sense, a proper elucidation of the history of the use of information in government would do better to draw upon the historical sociology of Michael Mann (1986, 1993), rather than the schematic sociology of Anthony Giddens.

In *The Information State in England*, for example, I tended to talk about the Poor Law system based on parliamentary statutes, which mandated the collection of a parish tax for the relief of the poor, as a unified entity. However, not all parishes in England and Wales introduced the Poor Laws at the same time or in the same manner. According the Wrightson, in the 1650s the Poor Laws were only operational in about one-third of England's 10,000 parishes, and only became universal during the reign of Charles II in the later seventeenth century (Wrightson 2000: 216). It is misleading to assume, therefore, that the plethora of legislation in the sixteenth and early seventeenth centuries necessarily resulted immediately in the erection of a fully fledged system of welfare, and the surveillance of the poor population that went with it. Similarly, the constant diatribes of the Church of England and moralists against the loose living and bastardy of the poor hardly indicates that the moral surveillance of the ecclesiastical courts was that thorough or effective. The relationships within the decentralized systems of governance, involving the monarchy, Parliament and local elites, that made up the early modern state were rather more tenuous than the 2004a book implied. Rather than a system, we might see early modern state legislation and institutions as a framework within which power and responsibility shifted with local

circumstances and political events. However, that framework appears to have become more prescriptive and accepted over time.

This state of affairs could still be seen in the welfare reforms inaugurated by the 1834 New Poor Law Act, which is said to have banned 'out relief" for paupers in their homes, and mandated the establishment of punitive workhouses in which the poor were to be incarcerated. This system was to be monitored centrally by a Poor Law Commission, and this, I argued in *The Information State in England*, led to:

> a developing relationship between local and central government, in terms of the setting and monitoring of local norms of behaviour, [which] led to central information gathering. The centre had to measure, and thus understand, local conditions before it could prescribe practical norms, and gauge their implementation.
>
> (Higgs 2004a: 67)

However, according to Keith Snell, and contrary to the accepted historical orthodoxy and the policy of the Poor Law Commission, outdoor relief in the parish still dominated the Poor Law after 1834. The workhouse was a threat to cow the poor but most of them still received relief outside it in their homes. In the years 1834 to 1929, after which the Poor Law system tended to fall into disuse, normally over 80 per cent of poor relief was out relief. It was only in London and the urban areas of the North and Midlands that workhouse relief predominated. The continuation of out relief in the countryside, Wales and many small towns meant that the parish overseers still needed to have personal knowledge of the poor (Snell 2006: 17–18, 217–218, 231–233). Similarly, great play was made in my book with regard to the impact of the collection and dissemination of statistical data on health by the mid-Victorian GRO on the sanitary arrangements of the cities (Higgs 2004a: 83–91). However, actual sanitary arrangements on the ground, or, better still under it, only seem to have improved markedly in cities in the late Victorian period, as government loans became available (Bell and Millward 1998: 221–249). In general terms, we must be cautious of equating legislation and information gathering with practical governance, although the general shifts in the nature of the Victorian state described in *The Information State in England*, if not the specific chronology, may still be discerned.

The expansion of the central state in the nineteenth and twentieth centuries also needs to be seen as much in terms of the capture of public authority by interest groups, as of an organic growth. This may be seen in the infiltration of members of the nineteenth-century British Civil Service by radical intellectuals, and members of the burgeoning professions, who provided ready-made solutions to social problems. Michel Foucault has, of course, argued strongly in *The Birth of the Clinic: An Archaeology of Medical Perception* and *Discipline and Punish: The Birth of the Prison* for the expansion of the state in the interests of the medical and disciplinary professions (Foucault 1976, 1977). This process may also be seen clearly in the career of William Farr, a medical man and the GRO's

superintendent of statistics from 1842 to 1879, who developed the production of the statistics of death registration as a means of furthering sanitary reform and medical science. There is little evidence that such a function was originally seen as part of the Office's core structure. Thus, when the first Registrar General, Thomas Lister, wrote to the Treasury on 6 November 1837 to discuss the duties of the GRO, he omitted any mention of a statistical function. Rather, the business of the Office was to be divided into three branches – Correspondence; Accounts; and that dedicated to the 'Arrangements & indexing of certified copies of all registers – including the admission of the public to search'.[4] Indeed, it was not until 19 May 1838, 19 months after the GRO had started work, that Lister approached the Treasury for permission to employ someone to draw up tables of the causes of death. Although Lister believed that the work would have to be undertaken each year, he did not foresee that it would 'fully occupy the time of the person to whom it may be assigned'.[5] In this rather inauspicious manner, a vacancy for a medical statistician was created within the GRO.

Into this opening stepped Farr, who was to radically alter the Office's role and structure through his activities. Even then, medical and sanitary statistics were not an official part of the GRO's output but had to be smuggled in by a slight of hand. In mid-1839, when Lister published the first *Annual Report of the Registrar General*, it contained 16 appendices, one of which was a 'Letter to the Registrar General' from Farr on registered causes of death.[6] Thus, Farr had to write to his own head of department as a private citizen in order to get his statistical work published. At this date it would have been difficult to imagine that this 'Letter' would grow in extent and importance so as to eventually form the body of the *Annual Report* in its own right. This reflected the growth of the size and functions of the Statistical Department of the GRO in the decades following its establishment (Higgs 2004c). However, this was not some centrally planned expansion but because Farr offered solutions to the problems of Victorian government with respect to the sanitary conditions of the expanding industrial cities.

Seeing groups of civil servants as active, and clashing, promoters of policy, rather than mere executive agents of government, helps to explain the fraught and inconsistent manner in which state information gathering has expanded in Britain. In *The Information State in England* I described one such struggle over data collection as a result of the attempt by officers of the GRO to expand National Registration set up during the First World War into a fully fledged population register in its aftermath. This was opposed by other civil servants who feared the 'Prussianization' of British society, and the high cost of such a system (Higgs 2004a: 137–139). But this clash was not an isolated incident, as shown by the fate of the attempt by the Treasury at about the same time to have all pensioners fingerprinted to prevent benefit fraud. Both the Ministry of Pensions and the War Office opposed this because they were unhappy about applying a form of identification associated with criminals to respectable citizens and the soldiers of the Crown (Higgs 2010). Similarly, in 1952 the Foreign Office rejected the attempt by the Treasury to abolish the recommender procedures whereby a member of the public verified the identity of someone applying for a

passport. Since the Passport Office had no idea if the signature of the recommender was genuine, or even if the recommender had much knowledge of the applicant, the Treasury argued that the procedure was susceptible to identity fraud. Instead it advocated the production of a page from a savings book with a signature, a driving licence or paid cheques. If these were not available then two or more gas, rates or electricity receipts, insurance policies, a medical card or a letter from a government office could be produced, and all to be supported by a ration book or birth certificate. At the time the Foreign Office dug in its heels and retained the recommender system, much to the Treasury's disgust (Higgs 2011: 150).

Such clashes and disagreements over information collection may also be seen among the politicians who have dominated the British State since 1900. The members of the centre-left Labour Party have always been more comfortable with national registration and identity card systems than either party of the centre-right, the Liberal Party or the Conservative Party. It was the latter that abolished the ID-Card system that the Labour government of 1945 to 1951 had maintained. Similarly, it was the Conservative–Liberal Coalition government of 2010 that repealed the 2006 ID Card Act of the previous Labour government (Higgs 2011: 155–156, 198–100). The 2010 Coalition has also indicated its desire to abolish the census, and reduce the amount of information collected by the Office of National Statistics. However, it should be noted that the amount of information collected by the state has increased constantly in the twentieth century whatever government was in power, and the Coalition is proposing to replace the census with information obtained by commercial organizations.[7]

The current proposals to replace information collected by the state with that collected by commerce raises a further problem with the approach to surveillance in *The Information State in England.* By concentrating on state information gathering, the book gave the impression that the creation of vast databases of personal information, and the threats to civil liberties that result from it, are something associated with the state. This concentration on state surveillance, almost to the exclusion of all else, may be found in many other works that have examined personal information gathering. This may be seen from a cursory perusal of the standard work in the field, Jane Caplan and John Torpey's edited volume *Documenting Individual Identity* of 2001. Many of the key works in the field, such as Simon Cole (2001) and Chandak Sengoopta (2003) on fingerprints, Torpey (2000) on the development of passports, and the sociological works of David Lyon on identification (Lyon 2001, 2003, 2004; Bennet and Lyon 2008), are predominantly concerned with the motivations and actions of public bodies, and their relations with criminals and citizens. Such an exclusive concern with state data gathering may also be found in such civil society pressure groups as NO2ID.[8] This meshes with much postmodernist and neo-conservative thought, in which the state appears mainly as a fount of repression.

However, this approach ignores the vast proliferation of databases created by commercial organizations that materially affect the life chances and privacy of millions. A case in point is the development of the credit reference agency in

England. As well as a source of profit, commercial organizations have long seen customers as a potential threat. As early as the eighteenth century, problems of bad debt led retailers to form their own private protection societies for the identification of those individuals presenting a credit risk. By 1776 the London Guardians, or the Society for the Protection of Trade against Swindlers and Sharpers, had been established in the Metropolis to pool information about fraudsters (Finn 2001: 101). Similar societies grew up in commercial and industrial centres in the provinces, and in 1854 the Leicester Trade Protection Society had connections with affiliates and agents in 469 towns at home and abroad. There was a National Association of Trade Protection Societies (NATPS) coordinating the work of provincial organizations from 1866 onwards (Finn 2003: 291). Such associations sent out weekly, fortnightly or monthly circulars describing swindlers active in their areas (Finn 2003: 291–301).[9]

A modern credit reference agency such as Experian holds a range of related databases of information on consumers, including: a postcode address file; the electoral register; information on aliases and associations; data on County Court judgments, bankruptcies, administration orders and voluntary arrangements; previous searches made as the result of credit applications; telephone numbers; information from CIFAS relating to potentially fraudulent dealings; repossessions made by mortgage lenders; addresses from which individuals have recently set up a postal redirection; data on high-risk individuals who appear on official sanction lists, such as the Bank of England Sanction File, the Politically Exposed Persons File (PEP) and the list from the US Treasury's Office of Foreign Assets Control (OFAC); and information about consumers who are in arrears on credit contracts, or who have moved house without leaving a forwarding address.[10] Experian holds information on 45 million UK consumers, and processes more than 1.5 million credit reports each week, using algorithms to create a single, numerical credit 'score' for individuals from the information it holds. The scoring determines what credit will be made available to consumers.[11] Similarly, the databases of Equifax, Experian's main rival, cover a similar number of people, and hold over 300 million credit agreement records.[12]

According to the records of such bodies, an individual's credit worthiness is established, in part, by the area in which he or she lives, as well as by personal characteristics. In the early 1990s, the Office of Fair Trading (OFT) noted the development of such 'red-lining' in British credit rating agencies, although this was plainly a much older practice. The postcode where consumers lived was given a weighting according to the number of County Court judgments in that postcode. This was supplemented by 'geodemographic' information on type of housing, composition of households, age, occupations, and so on, drawn from the census. Official data was thus being appropriated for private, commercial purposes. The OFT deemed this acceptable as long as red-lining did not outweigh all other characteristics in the scoring system.[13] This form of 'social sorting' by class and locality, in the sense of the term used by David Lyon, is still practised today by credit agencies such as Equifax and Experian, and affects people's access to credit and goods, and so to their life chances.[14] Similar control

over the lives of consumers, or intrusions into their privacy, may be seen in the concerns expressed over Google's use of its users' personal information, the material collected by its Street View program, and the use made by Facebook of the information which users place on its site.[15] In essence, customers are being turned into commodities for sale.

Thus, as Chandak Sengoopta has noted, 'the supposedly great things about postmodern British democracy – conspicuous consumption, extensive social welfare, free markets, the free movement of people – are all ultimately dependent on the identification and surveillance of individuals' (2012: 35). Information gathering is not something confined to the state. Moreover, the way in which commercial organizations such as credit reference agencies and supermarkets use official statistics, and states are drawing on commercial databases to supplement or replace their own information-gathering capabilities, indicates a gradual merging of state and commercial information systems. This may also be seen in the way in which modern biometric systems of identification are no longer technologies developed by the state, as in the case of fingerprinting, but commercial products that are sold to government agencies (Higgs 2011: 189–191). Rather than talking about the Information State, perhaps we should be analysing the 'Commercial–State Informational Complex'.

In sum, I no longer regard *The Information State in England* as the final word on its subject; rather, it has been a jumping-off point for much subsequent work. However, that is what all decent books should be.

Notes

1 National Archives, London: General Register Office: Census Returns: Specimens of Forms and Documents (RG 27): RG 27/6 Census of England, Wales and Islands in the British Seas, 1891.
2 See the Pipe Roll Society website: http://piperollsociety.co.uk/.
3 National Archives, London: Treasury Board Papers (T1); Treasury: Registers of Papers (T2); Treasury: Skeleton Registers (T3); Treasury: Subject Registers (T108).
4 National Archives, London: General Register Office: Letter Books (RG 29): RG 29/1, p. 16. 'Correspondence' meant the production of circulars, letters, etc. relating to the work of the registration system; 'Accounts' related to the payment of fees, expenses, salaries; 'Arrangements & indexing of certified copies' involved checking incoming copies of certificates of births, marriages and deaths, transcribing entries, cutting them up and arranging them alphabetically, and then copying them into index books.
5 Ibid., p. 35.
6 General Register Office, *1st ARRG for the Year Ending 30 June 1838*. London: HMSO, 1839, pp. 65–125.
7 'Could our storecards replace the census? Plans unveiled to use data from shops, banks and estate agents', Mail Online website: www.dailymail.co.uk/news/article-2050721/UK-census-abolished-replaced-data-shops-banks-estate-agents.html#ixzz2HUThfN7R (accessed 9 January 2013).
8 NO2ID website: www.no2id.net/ (accessed 9 January 2013).
9 Ibid., pp. 291–301.
10 'Consumer Information', Experian website: www.experian.co.uk/www/pages/why_experian/our_information_source/our_information_source_consumer_information.html (accessed 5 August 2009).

11 'We are Experian', Experian website: www.experian.co.uk/www/pages/about_us/about_experian/index_continued.html (accessed 6 August 2009)
12 'Consumer information solutions', Equifax website: www.equifax.co.uk/Consumer-Credit-Services/consumer_solutions.html (accessed 6 August 2009).
13 Director General of Fair Trading, *Credit Scoring: A Report*. London: Office of Fair Trading, 1992, pp. 28–30.
14 'Consumer risk solutions', Equifax website: www.equifax.co.uk/efx_pdf/Risk_Navigator_af.pdf (accessed 6 August 2009); 'What can it do for me', Experian website: www.experian.co.uk/www/pages/what_we_offer/prodcuts/mosaic_uk.html (accessed 6 August 2009); Lyon, *Surveillance as Social Sorting*.
15 'Dismayed at Google's privacy policy, European group is weighing censure', *New York Times* website: www.nytimes.com/2012/12/08/technology/eu-panel-to-pressure-google-on-privacy-rules.html?_r=0 (accessed 10 January 2013); 'Google Street View privacy concerns', Wikipedia website: http://en.wikipedia.org/wiki/Google_Street_View_privacy_concerns (accessed 10 January 2013); '8 Facebook privacy flaps', CBSNews website: www.cbc.ca/news/technology/story/2012/09/25/f-facebook-privacy-list.html (accessed 10 January 2013).

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3 Situating surveillance

History, technology, culture

David Lyon

1 Introduction

It is only fairly recently – perhaps since 2000 – that surveillance has entered common parlance to describe an everyday part of people's lives rather than as something extraordinary, relating to policing or intelligence. Video cameras installed in public places are an obvious example, especially as cameras may now be used not only *by* police (as "Big Brother") but also, when done informally by citizens, *on* police, to try to ensure that they too observe the law. Yet the kinds of practices that come under the "surveillance" heading have a very long history. If surveillance is a deliberate, purposeful watching of others, particularly to check that those others come to no harm or get into no mischief, then many activities may be seen as surveillant. The history is important, though, because surveillance has undergone many changes through the centuries, with the result that its role in social relationships is different from what it once was.

One key dimension of the changes through history is the development of technologies that mediate surveillance in different ways, from Shakespearian keyholes and curtains to bureaucratic processes and digital information handling. When surveillance is discussed today it is usually associated with some new device or system, from body scanners at airports to surveillance drones flying overhead. That is, surveillance is assumed to be the *product* of some new technology, which frequently has a digital dimension. Yet the "new" device may equally be the product of a desire for improved surveillance, or may build on previous generations of devices and systems. As well, the surveillance may be a by-product of the original purpose of the device – think, for example, of the ways in which what is still referred to as a (smart) "phone" actually works efficiently as a tracking device.

Thus surveillance has to be situated both in relation to a long history, which helps gain a perspective on what is all too often mistakenly seen as "new", and also in relation to technology, the main determinant, especially in popular opinion, of the "new". This way, surveillance may be seen as an unfolding process over time, a process that often involves technological mediation. It is complex, nuanced and ambiguous, depending not only on what surveillors intend to achieve but also on other factors such as the unintended varieties of surveillance (Monahan 2007),

how ordinary people negotiate their own visibility (Brighenti 2010; Nippert-Eng 2010), how well the technologies work (Norris and Wilson 2006) and even current beliefs about the desirability of surveillance or the efficacy of technology (Mosco 2005). In other words, situating surveillance is a profoundly *cultural* matter that cannot be reduced to naïve claims about today's technologies that often forget past developments on which they depend.

In what follows, we will explore these themes by reference to a number of cases. My aim is, first, to draw attention to the significance of the historical development of surveillance and indeed to accent the historical as a vital corrective to some common misunderstandings of surveillance. The historical perspective also reminds us that others have found ways of negotiating earlier forms of surveillance. Because the misunderstandings are frequently related to technology, I focus second on some of the questions prompted by devices and systems of surveillance. By "technology" I refer to assemblages of artefacts and human activity; never to some "neutral" realm where "technology" is an abstract noun. While it is patently the case that new technologies often have a decisive impact on how surveillance is done – unmanned aerial systems or "drones", for instance, offer fresh opportunities for remote, precise and scarcely perceptible observation of others – today's technologies grow out of yesterday's. As may be seen with drones, first used in the Second World War, the issues they raise are not entirely new; they have been faced in some form before.

Thus a sense of history is badly needed to grasp the context of the contemporary, which brings us to the third issue: culture. While the rise and fall of surveillance *states* or the ebbs and flows of surveillance *societies* are well worth tracing, other important ongoing issues have to do with the condition I prefer to call surveillance *cultures.* That is, how we live surveillance, how we negotiate privacy and how we manage visibility. The "Big Brother" or "new technology" stories of surveillance are important but inadequate, I suggest, because they miss the interactive, subjective, engaged dimensions of everyday living.

2 Overlooking history

The subheading is a *double entendre*. I want to suggest, simultaneously, that important histories of "over-looking" or "surveillance" exist but that they have been "overlooked" in the sense of "neglected". One does not have to search far for some obvious reasons for overlooking history. One is the contemporary obsession with the present, with cultural immediacy, the here-and-now (Bauman 2007; Tomlinson 2007). With this comes a loss of cultural memory and the mistaken idea that the issues raised by today's surveillance are "new". Another is popular assumptions about technology as a "driver" of (surveillance) change. In this view, changed behaviours start with new technologies. The internet, for instance, was associated with notions such as the "death of distance", whereas in fact, argues Barry Wellman, business and community ties had been stretched over greater distances for some time (Wellman 2001). A third reason, perhaps peculiarly associated with surveillance, is that a "turn to the future" and its

obsessions with anticipation, pre-emption and prevention also shifts attention from the analysis of the past (Van Brakel and De Hert 2011).

There may also be other, less immediate reasons why ahistorical approaches have negatively affected Surveillance Studies. One is a misunderstanding of the relation of history to sociology (Abrams 1982), and another, paradoxically, is that Foucault has been read in ways that both draw attention to and deflect attention from certain historical developments. I take the view that the disciplinary boundary between history and sociology is blurred at best (and probably non-existent), and that Foucault's important and insightful work on the panopticon, biopower and governmentality should be checked against actual historical data (Breckenridge and Szreter 2012), as he himself cautioned.

A burgeoning industry of histories of surveillance is helping us to see this much more clearly and it offers the tools for a more nuanced grasp of the significance of surveillance today. This may be illustrated with, for example, administrative, policing, consumer and identification technologies, or with respect to more general issues of the control of space or time. In each of these cases, many old questions are raised in new ways, to do with the ambivalence of the technologies themselves as well as specific questions about issues that range from data image reductionism to social sorting.

This is particularly welcome for me. I started out with a PhD from a history department and intended, in my first book on surveillance, *The Electronic Eye* (1994), to contribute to historical sociology. Indeed, my planned title (subsequently relegated to subtitle status) was *The Rise of Surveillance Society*. Despite my avowed concern for an adequate history of how surveillance technologies were shaped, I can now see how the astonishingly expanded capacities of computer-based information and communication technologies may partially have distracted my attention from the already existing systems and technologies that the digital ones upgraded.

I was, of course, standing in what may now been seen as a grand tradition of scholarship examining the dimensions of what Gary T. Marx called "the new surveillance" (Marx 1988). While Marx focused on surveillance practices in policing, Oscar Gandy examined related themes in his studies of consumer surveillance, likening database marketing to a kind of panoptic machine (Gandy 1993). Indeed, James Rule's earlier research had in a sense set the scene for this with his groundbreaking exploration of the surveillance consequences of credit cards and social security systems in the 1960s (Rule 1973).

Each scholar had a keen sense of the big picture and none argued that technology played an independent role in the rise of these "new" surveillance systems. Yet just because of the pressing need to demonstrate that new techniques required new and urgent attention, what came to be known as Surveillance Studies has at least in part been associated with a tilt towards the technological, an emphasis that tends to turn our attention away from the full range of antecedents of today's surveillance practices.

The neglect of history may also be seen in ways that policy and practice are often seen as "catching up" with technological change which itself is mistakenly

seen as neutral, with "problematic" aspects needing ethics or regulation to correct. An appreciation of history reminds us that however much they may be seen as ends in themselves, technologies – high- or low-tech – are the means of trying to achieve goals and that, as such, they are human activities, as susceptible to moral and ethical critique as any other (Winner). The liquor licensing scheme in Ontario, for example, was born of temperance sensibilities that included both an understandable desire to limit the ravages of the "demon drink" and an urge to find means of social control rather than appeal to restraint and responsibility (which is how today's liquor board operates). It featured the close supervision of drinkers, especially if they were from first peoples in Canada (Genosko and Thompson 2009).

One key area in the history of surveillance is identification systems (ID for short) and here the issues of technology and culture are in bold relief. In this area, some excellent research is available. It is evident that if any organization wishes to keep track of a given population, having access to identifiable information is crucial. Control of the means of identification is often thought to be a vital step towards political or social control. So-called surveillance states certainly depend on the existence of identification systems but the question is not as straightforward as it may appear. The fact that authoritarian, undemocratic or violent states use IDs to consolidate their power does not necessarily mean that all ID systems are socially repressive.

Some are, however. Consider the Nazi death machine which, infamously, used developing IBM ID technologies to keep track of fated populations of Jews, homosexuals and others during the Third Reich. The sorting mechanisms dependent on identification records served to determine which persons would wind up in death camps and labour camps. This is documented in Edwin Black's controversial *IBM and the Holocaust* (Black 2001). Similarly, in East Germany the Stasi (secret police) was well known for its meticulous files on identifiable individuals that enabled the state to maintain control during the bleak post-war years of political repression in that country. Such themes are explored poignantly in the film *The Lives of Others* or in Anna Funder's book *Stasiland* (Funder 2003).

In other contexts, too, ID has been used – and in some cases is still being used – to classify and control populations in ways that produce everything from dehumanization to death. The case of Rwanda is a stark and terrifying one in which the systematic genocide of Tutsis by Hutus in 1994 was facilitated by the Belgian colonial ID system, originally set up in 1916 (Longman 2001). Much more subtle, but resulting in long-term multi-generational suffering, is the case of Palestinians in Israel and the Occupied Territories. In this instance, since the 1930s and in changing forms, the holding of IDs based on differing ethnicity ensured that displaced and disadvantaged Palestinians and "Arab Israelis" experience ongoing "second-class" status that eventuates variously in harassment, homelessness and hopelessness (Tawil-Souri 2011; Lyon 2011).

Before one concludes that such histories indicate that the development of state identification systems is uniformly negative for the populations concerned

however, it is worth considering another dimension of IDs. While in some situations they may well be a form of surveillance that serves to deny human rights, in other contexts – times and places – the story may be markedly different. Edward Higgs, for instance, shows that in the UK, the wholesale registration of citizens had more to do with the expansion of the welfare state – and thus with what might be called "human security" – than with a malign state control (Higgs 2004). It should be noted that as with practices that deny human rights, such forms of capturing identifiable population data are also achieved with the aim of classification and categorization in order that different groups may be treated differently or "socially sorted".

An explicit argument about registration and human rights is made by Simon Szreter (2007) and expanded by him and Keith Breckenridge (Breckenridge and Szreter 2012). In contrast with theories of identification that focus on the control of colonial or deviant populations, they argue that registering populations is necessary for social support, equality and welfare. Registration is necessary for the recognition of those with rights, such that they may have tokens to prove their entitlement. Thus, far from coercion and the denial of rights being a central motif of registration and identification systems, say Breckenridge and Szreter, "registration – official recognition of existence and an identity – is the grounding and basis or human rights" (Breckenridge and Szreter 2012: 22).

Thus the continuum between surveillance care and control becomes very visible in the case of registration and identification by the state. And of course the continuum is just that; a mixture of different aspects, not neatly demarcated zones in which "caring" or "controlling" surveillance may be clearly discerned. If we take the case of current efforts to establish a mammoth Universal Identification (UID) system in India, both aspects – the human rights promoting and human rights denying – may be seen. While the official rhetoric extols the system's capacities to engender greater equality and to benefit the poorest, critics question how far the scheme will be – or is being – used in political repression (see Ramanathan 2010; Jacobsen 2012). However well intentioned, there is always the chance that identification schemes, ostensibly set up for human flourishing, may be subverted for other ends.

There is indeed nothing new under the sun when it comes to contemporary surveillance technologies. Each was conceived and born of already existing socio-technical practices. Sometimes the connections are complex. During 2013 major controversy erupted in several countries – perhaps notably in Germany and Brazil – over revelations about the activities of the US National Security Agency (NSA) keeping tabs on the communications of ordinary American citizens. Details of what had been suspected for a long time were leaked by whistleblower Edward Snowden, who had worked as a contractor for the NSA.

But the genesis of such policies lies abroad, in the colonial administration of the US in the Philippines from 1898, where keeping track of the domestic population was basic to the intelligence apparatus set up by the occupying US Administration. Interestingly, as Alfred McCoy shows, American information technologies – the typewriter and telegraph (invented 1874), the punch card with

its alpha-numeric coding (1889) and the Gamewell Corporation's police communication system – were all used in the three-tier security apparatus. These surveillance practices, once tested in a colonial context, were re-imported to the US to become key components of the FBI, CIA and, eventually, the NSA (McCoy 2011, 2013).

Of course, consequential expansion or intensification (or contraction and mitigation) of surveillance takes place from time to time but it is mistaken to imagine that nothing comparable precedes today's surveillance. The "gaze" is itself an historical formation, and visibility (its counterpart) is also an historically formed aspect of culture (Brighenti 2010). Watching, listening to or documenting others systematically for specific purposes are age-old practices – before wiretapping, CCTV, drones, data-mining (and even "watching" may be an ancient metaphor for all kinds of surveillance, not just through privileging the gaze in modern times: see e.g. Jay 1994). This is why it is important to think of surveillance as a "cultural invention".

A keen historical perspective is thus vital to Surveillance Studies, both to indicate the long-term development of surveillance practices and technologies and also to throw light on what sorts of purposes are served by surveillance. Each of these threads, illuminated by appropriate historical research, deserves further exploration. Surveillance is generally mediated by some means, which has increasingly been associated with "new" technologies in modern times.

However, care should be taken here. Technologies are often overrated for their role in surveillance, not least because they are often assumed to have some intrinsic impact. But surveillance is generated by social practices – indeed, technologies are themselves the outcomes of such practices – and they thus evidence the meanings or the ethical direction of surveillance. So an historical perspective also helps to sort out what sorts of purposes lie behind surveillance and may also inform efforts to redirect or eliminate certain kinds.

3 Overrating technology

"It's right to ask questions about surveillance," stated President Obama, "particularly as technology is reshaping every aspect of our lives" (Savage and Shear 2013). What you are reading is in accord with the first part of Barak Obama's statement, made in 2013 in the aftermath of whistleblower Edward Snowden's leaks about the NSA's spying on ordinary citizens. But I hesitate over the second part, not because technology is irrelevant or unimportant, but rather because technology should always be viewed in context.

This section is about the significance of histories of surveillance technologies. Simply put, the tendency to attribute "newness" and transformative power to surveillance technologies is misleading. Of course, the technical details of surveillance devices and systems do have to be analysed and borne in mind in any account of their operation; how they "work" often makes a crucial difference. But surveillance is often popularly framed in terms of new challenges, frequently relating to the introduction of a fresh level of technical development rather than

of previous iterations of similar surveillance or, more importantly, the *socio*-technical context of the "new". The role of new technology in emerging surveillance challenges can easily be overplayed.

Let me return to the example given earlier, of identification systems. Now I wish to throw light on both the difference that technological development makes and the ways in which the political-economic context of ID systems should not be ignored. Since the later twentieth century, "showing ID" has become a taken-for-granted routine in many countries. It is assumed that as a part of our daily participation in social, economic and political life, we must give evidence, show some token, of who we are. It has become a general condition of our freedom (Rose 1999) rather than something extraordinary, reserved for particular occasions such as crossing borders or specific kinds of persons such as criminal suspects.

The tokens of legitimate identity have changed, however. What once existed in card indices or paper documents has undergone extensive augmentation, first through punched card machines and eventually into fully digital systems. Today the means of checking ID are increasingly invisible, embedded in the ordinary objects of everyday life. They are also much more powerful. Digital systems allow for direct, instantaneous checking against the database, which means that the individual concerned is not merely showing that they are a member – say, of a gym – but use of the card also connects the user with their "data double". The record of the visit to the gym will automatically be recorded too, adding to the digital file. Moreover, the data may be used to sort users into categories so that they can be treated differently (Lyon 2009). These are authentic historical changes in which the relationship between the individual and the organization (including government) is altered significantly.

So there are indeed notable changes associated with technological development. They are present in everyday IDs such as driver's licences and are further enhanced by the use of embedded RFID (Radio Frequency Identification) chips and biometrics. But there are other factors at work and not "new technology" alone. Indeed, the idea that "new technology" ever exists alone is mistaken. All technology is a product of human activity, is socially shaped and subject to political-economic direction. For example, the desire to integrate different ID systems into unified ones relates not only to technological efficiency (indeed, arguments can be made to show how inefficiencies arise from attempted unification) but to other kinds of policy and profitability goals. In Canada, attempts have been made to merge driver's licences and health cards, of which British Columbia's Service Card is the most advanced example (CBC 2013).

Behind such changes is a complex political economy in which government departments and large corporations work together to produce technological effects that then also become an integral part of the story. I refer to this government-corporate-technology assemblage as a "card cartel" in which each component plays a role (Lyon 2009). The high political priority that since the 1980s and especially since 9/11 has been accorded to a vaguely defined "national security" augments the cartel effect.

To continue the Canadian example, the facial geometry of ordinary populations is enrolled in biometric databases with little or no debate and precious little regulatory oversight (Magnet 2011). All of this illustrates how the new technologies contribute to a new surveillance only within a political-economic framework. In Canada, as in many other countries, that framework is committed to government-supported market solutions geared to mobilizing concepts such as national security. This also reveals at a deeper level the actual ethics of such systems; they assume that the interests of ordinary people are reflected in the choices of government and corporate interest.

Once considered in this historical, political-economic and cultural perspective, all manner of new technologies may be shown to have important surveillance aspects along with their attendant ethical quandaries. Concerns about digital IDs or about government surveillance are rightly raised because details are revealed to others in ways that may be inappropriate. We become more visible to organizations as evidence of our activities emanates from our communications or transactions. While we may not know exactly how this happens or what are the consequences, we are often aware that power is flowing in different ways than before.

But, as Josh Lauer shows, this applies historically as well as in the present day. It is as true of the era when the camera, telegraph, typewriter and telephone were new as it is of the internet, biometrics or drones (Lauer 2011). Using Carlo Ginzburg's concept of an "evidential paradigm" of new, nineteenth-century media technologies (Ginzburg 1990), Lauer argues that early photography, the phonograph and the telephone each "produced evidence" concerning their mediated users that "helped to reshape the information environment in which individuals interacted with institutions as well as each other" (Lauer 2011: 577). As we have seen, such technologies were successfully used in US colonial and domestic surveillance apparatuses.

Then, as now, the new media technologies were greeted ambivalently, with both enthusiasm and uncertainty. While time-and-space barriers were overcome in apparently "progressive" ways, paradoxically this also produced less than welcome exposure to others. Before the phonograph was used primarily for commercial recordings, great fears were expressed about the surveillance potential of this machine. One critic worried, in 1878: "What's to hinder these newspaper folks from slipping into every house and rigging one of 'em up alongside the gas meter?" (Lauer 2011: 575). By 1890, shows Lauer, one's information footprint was already growing exponentially. The media that enabled this could be thought of as the missing link between early nineteenth-century administrative writing and later twentieth-century digital media (Lauer 2011: 579).

Thus new technology is significant but may easily be overrated. The main argument of *The Electronic Eye* in this regard was that information technologies enhance – sometimes massively – the capacities of surveillance systems. Today, organizations of all kinds have access to large quantities of all sorts of personal data that they can store, retrieve and transmit globally, and that can be processed for multiple purposes, many well beyond the original intent of the initial collection. But surveillance itself may still be considered in ways that can encompass

low-tech or no-tech methods, and sometimes the meaning of those earlier versions are easier to grasp. After all, the word means to "watch over", a concept that has numerous everyday meanings.

At its heart, surveillance is the quest for information for governance (which connects it closely with Foucault's work, applied to both government and commercial contexts). Or, more broadly, surveillance may be defined as systematic and routine attention to personal details for specific but mainly managerial purposes such as control, influence, protection or entitlement. When such systems are technologically boosted, the opportunities for wider and deeper surveillance are increased, sometimes exponentially. The quantitative change may also shade into the qualitative, as, for instance, when the digital makes a distinctive difference to processes and outcomes (Lyon 2007, 2013).

However, the technologies always exist in and through specific social and political-economic contexts that have defining effects on them. The technologies express the purposes embedded in those contexts. And the technologies are also experienced by ordinary people in everyday life. Today, their increasing integration into everyday activities means that they are part of a whole way of life. They are culturally experienced and their "integration" may be seen in several ways. They are patently present as cameras at traffic-lights or in building access cards. They are built into mundane objects such as phones. And they are used in various analogous ways by those conducting surveillance, such as in search engines. This is further evidence that we must go beyond overrated new technologies to understand surveillance today.

4 Making claims for culture

The history of surveillance reminds us not only about the large-scale efforts to govern populations using information or about the development of technologies for that purpose but also about how the subjects of surveillance are formed, how they respond to, negotiate, resist and even resort to surveillance themselves. After all, the outcomes of surveillance depend not only on the grand schemes, the powerful technologies but also on how surveillance is received and responded to in everyday life. In the twenty-first century, the growing capacity of systems to be in contact with each other and to work together makes this more complex.

The very words used to describe what is here called surveillance make a difference. In the context of government, what is now called surveillance used once more commonly to be called "spying" or "espionage", and was often frowned on or forbidden when applied to domestic rather than foreign populations, or when carried out by employers or churches. The history of spying also holds lessons for those concerned with surveillance today. The contexts of other-watching activities are crucial for determining the appropriateness or otherwise of surveillance practices (Nissenbaum 2010) and reminders about the word "spying" help to jog memories about this.

"Spying" is generally associated with military intelligence and police. But it is vital to include within surveillance matters that relate not only to state

activities but also to those of corporations, even though they would not use either word to describe what they do. Perhaps because of the "spying" connotation, surveillance as understood by academics has often focused on government rather than "purely" commercial operations. The difficulty of so doing today is demonstrated by the fact that government organizations often depend on privately gathered data and that the kinds of data required by police or intelligence agencies are frequently similar to those collected by corporations.

In the longer historical sweep, it is hard to say which came first, state or commercial surveillance. And of course, they may well have been intertwined, as in the case of the Liquor Board of Ontario that oversaw customer purchases in an elaborate surveillance scheme starting in 1927 and continuing up until the 1960s. After Ontario's decade of flirting with prohibition (1916–1927) the government, not wanting anyone to be seen making money from "the ruination of families or creating drunkards", mandated a system of licences for all who wished to purchase liquor. Consumers were classified, and some groups – first peoples, women, the working classes and the poor – were disproportionately singled out as alcohol abuse suspects (Genosko and Thompson 2009).

It should be noted, too, that commercial surveillance was not merely a product of computer and telecommunications systems of the 1980s onward. Once again, Josh Lauer's work points up the ways in which social sorting of consumers, especially through credit rating systems, was widespread from the 1920s in the US but actually started in the 1840s (Lauer 2008, 2012). While the popular image of the consumer society during the twentieth century is often that of "mass marketing", in fact strategies of individual customer control were already being developed in the nineteenth century. Such targeting was done by credit managers, sometimes using specialist agencies to sharpen their aim.

Such "mercantile agencies", as they were called, attempted to increase the visibility of individuals to the corporation through a complex system of record keeping that included actual transaction details but also local hearsay and anecdotes. Reputations could be made or broken as financial identities were constructed by agents called "correspondents". The task was central to the work of the early Dun and Bradstreet business. Interestingly, the agencies were not without critics. One journalist described credit reporting in the 1850s as "an organized system of espionage" (Lauer 2008: 322). "Spying" always seems to carry negative connotations.

Although space forbids a full exploration of this here, the idea that "cultures" of surveillance exist has a number of features. One is that any given culture of surveillance is multi-faceted. On the one hand are the cultures of control and organizational power that define the kinds of surveillance sought, and on the other is the creative range of tactics and strategies adopted in relation to surveillance from compliance to counter-action. In an age of social media these become increasingly closely intertwined at some junctures (Smith and Lyon 2013). Simple divisions between surveillors and surveilled are still needed to understand some surveillance dynamics but they no longer work on their own, if they ever did.

Another feature of surveillance cultures is that they exhibit "imaginaries" and "practices". Surveillance imaginaries are the ways in which surveillance is conceived and how it relates to other dimensions of social life – how it is "framed" practically, ethically – and the practices are those everyday ways of actually engaging with surveillance. In an era of social media, such engagement is complex and not easily predictable (Trottier 2012; Marwick 2013). To use analytic concepts such as this invites historical inquiry to discover how surveillance cultures differ and alter over time, but also ethical inquiry, of which those initial mappings are an essential precursor.

The cultures of today's surveillance in the West have grown from both medieval and modern times – especially from the nineteenth century – and this helps us to place the design, uses of and responses to particular technologies in context. Not only that; it also indicates that the real questions are not narrowly technical but profoundly ethical. All too often in today's world, "ethics" are tacked onto technical development to give an after-the-fact seal of approval. The history of surveillance technologies suggests that it should be the other way round. In considering surveillance technologies ethics should be the starting point.

The importance of the history of surveillance raises questions about technology, especially the reminder that socio-technological practices are what lie behind talk of each new gadget and gizmo. The material artefact, the object, is unavoidably associated with the practice which in turn it helps to define. As Flores and others say, "technology is not the design of physical things. It is the design of practices and possibilities to be realized through artifacts" (Flores *et al.* 1988: 153, cited in Suchman 1994).

Such socio-technical practices are subject to moral and ethical evaluation as part of the intellectual pursuit of understanding. One cannot "do technology" in a neutral way and neither can it be studied thus. Lucas Introna notes, over against the STS tendency to claim such analytical detachment, that "there is no such thing as 'neutral' description and that it is therefore impossible to avoid politics and by implication ethics" (2009: 401). That the same machine may be used for different purposes does not make it neutral. Rather, it shows how it is subject to different kinds of evaluation. For example, IDs may guarantee or deny human rights; neither practice is "neutral".

So, what sorts of resources may be drawn upon to assess new surveillance technologies? Procedural ones go a long way in the right direction. I have in mind in particular Fair Information Practices that are widely respected as the basic requirement of data protection and electronic privacy regulation and legislation. These are largely aimed at limiting harms. They may not take account of larger issues, such as the distancing effects of technologies, where geographical space may mean moral distance when the "face" is obscured (Levinas), or the failure to consider positive outcomes – human flourishing (Cohen 2012) – in designing technologies and systems. Beyond this, recalling the massive pulling power of large governmental and corporate institutions may produce an acknowledgement – and, just as vital, practices to match – that justice as fairness is also important.

Today, as fresh forms of cultural practice emerge, as our surveillance imaginaries and practices develop at every level, this prompts a new look, not only at technological or legal responses to surveillance but also at deeper ethical understandings of socio-technical practices, aided by the long history of modern surveillance.

5 Conclusion

The urgency of addressing some issues of data protection or privacy raised by contemporary surveillance often focuses attention on the challenges of specific "new" technologies, whether body scanners, RFID, drones or ID-Cards. In itself, there is nothing wrong with this. New technologies should be assessed and where necessary challenged. But some grasp of history shows that the basic issues are not as new or as "technical" as we sometimes imagine. Today's "new" technologies usually have long prehistories that help us understand the present juncture. New surveillance builds on old, and the old, like the new, is socially shaped. The ethics and politics of surveillance are already present from the outset, embedded in the artefacts, techniques and systems. The history of surveillance reminds us about several things.

First, new technologies have antecedents from whose history lessons may be learned for confronting the present. The tendency to regard each gizmo, gadget and grand system as novel must be resisted. One task of surveillance studies is to revive and refresh the memory of previous surveillance cultures with a view to understanding how analogous situations have been discussed, dismissed or dealt with in the past.

Second, artefacts and technical systems have ethics and politics; they are cultural inventions, socio-technical phenomena, and thus cannot properly be viewed separately from their contexts. More than one writer has shown that descriptions of socio-technical situations are an essential part of an ethical analysis (see e.g. Introna 2009), and thus to explore the history of surveillance is also to contribute vital elements of an ethical appraisal.

Third, socio-technical systems do not always work the way intended by their designers, or promised by their adopters. The example given here relates to ID systems that may have quite different social and political consequences depending on how the purposes of the surveillance are related to the specific technologies involved. Social and political consequences cannot simply be "read off" certain technologies, although it would be remiss not to heed warnings of earlier abuses or misuses in subsequent developments. Yet, technical potential is not social destiny.

Fourth, focusing on the cultures of surveillance should not deflect attention from socio-technical systems and especially from the fact that they are subject to pulls of powerful interests. Socio-technical systems may frame relationships in particular ways – think of border security surveillance systems that survey different populations with varying intensity, for example. And powerful interests are ever-present in the establishment of new large-scale surveillance systems.

Surveillance cultures are the arena within which struggles over surveillance are worked out but how power flows is crucial for the outcomes for ordinary people.

In addition, fifth, the focus on cultures of surveillance as well as the power flows relating to interests reminds us that all histories are written from some perspective. The location of a writer in democratic, authoritarian or other kinds of state will make a difference to the way in which surveillance is perceived and theorized in that state. The historiography of surveillance is bound to be varied and multi-faceted. The point is not to try to write the definitive and final analysis but to indicate the perspective from which the analysis is written. The variety includes paranoid versions and serious warnings, through to much more sanguine and even complacent accounts of surveillance in this field. Too often missing, however, are accounts that arise from properly ethical reflection.

Sixth, human flourishing and the human face are often obscured in system development. This again may be illustrated from the history of ID systems but it is also generally true of other kinds of surveillance as well. The history of surveillance, which is bound to focus on technological development, does well to pay close attention to this. All too often, it is a story told "from above" and not "from below". The burden of this chapter is that to understand surveillance aright, it must be "both/and".

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Part II

Big Brother surveillance in the twentieth century in different countries

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4 A brief history of the anticommunist surveillance in Greece and its lasting impact

Minas Samatas

1 Introduction

Contemporary Greece is a post-authoritarian surveillance society with a painful surveillance history and negative surveillance legacies. State surveillance in Greece has been highly politicized as a basic political control weapon, used by the anticommunist police state throughout the post-civil war period from 1949 to 1974 towards repressive ends. Hence, the study of surveillance in Greece, as in all post-authoritarian societies, necessitates a socio-political and historical orientation (Samatas 2004).

Anticommunism is considered here as a defensive state overreaction policy, based on the perception of a threat from below. It justifies gross discrimination against any person or any organization which, because of its politico-ideological beliefs, is perceived as presenting a fundamental challenge to existing power relationships or to key governmental policies (Compton 1973; Goldstein 1978: xvi; Haynes 1996). Institutionalized anticommunism in Greece was not just an ideological campaign but a state repressive policy for mass political conformity, reflected in specific laws, policies and actions; it was undertaken by formal political authorities and para-state organizations using mass political surveillance.

In this chapter my socio-historical analysis starts with the origins and first legal and institutional measures of the anticommunist surveillance in the inter-war period (1910–1930) initiated by the liberal premier Eleftherios Venizelos. Key to that political control armoury was the so-called "idionym law" regarding thought-control crimes against the security of the regime. Next, I analyse the post-civil war repressive surveillance system (1949–1974), which ended with the collapse of military dictatorship in 1974. From 1949 until the end of the military dictatorship in 1974 the anticommunist winners of the bloody Greek civil war (1946–1949), operating with considerable US guidance and assistance, organized a police state and an oppressive anticommunist socio-political control system with a parliamentary façade. It used mass political surveillance based on specific US anticommunist laws of the McCarthy period to impose a form of generalized conformity and to coerce individuals to express loyalty to the regime. I conclude with the lasting impact and legacies of the anticommunist

surveillance to democracy and civil liberties, emphasizing the detrimental effects on state–citizens' relations in post-dictatorial Greece.

This chapter is part of my socio-historical approach to the study of surveillance in Greece, which has consequently focused on the structures and functions of the Greek state over the past 60 years. My project is to try to understand socio-political change and modernization in Greece by comparing the transition from the traditional anticommunist, authoritarian surveillance in the post-civil war era, to the post-dictatorial "new surveillance," considering the analysis of Gary T. Marx (2002). Yet, rejecting technocentrism, my comparative historical and socio-political approach relates surveillance dynamics to socio-political forces and larger processes operating in Greek society, such as foreign intervention and dependence. Of special interest in exploring this post-authoritarian transition is the continuing legacy of anticommunist surveillance on Greek society and on state–citizen relations. Hence, my research involves particular attention to the process of contradiction and resistance, and an attempt to connect surveillance practices with large-scale issues of democracy, social justice and social control (Lyon 2001: 154).

In the post-Cold War era traditional political control surveillance either by anticommunist or communist regimes may be considered old-fashioned compared to the new electronic surveillance (Marx 2002). Yet, the essence and methods of political control surveillance, like the anticommunist one in Greece, as I analyse its history in this chapter, again become timely in our post-9/11 environment, due to the war on terror and the hysterical global antiterrorist campaign (Beck 2002; Gandy 2006; Lyon 2003; Schulhofer 2002); because communists nowadays may have been replaced as the prime "usual suspects" (Fiske 1998) by members of certain minority groups or anyone else who is perceived by the global homeland security apparatus as a terrorist threat to public order and national security.

4.2 The first foundations and liberal origins of mass anticommunist surveillance in Greece (1910–1930)

Mass political surveillance of the entire Greek population as a significant mechanism of the Greek anticommunist state goes back to the liberal premier Eleftherios Venizelos' era in the first decades of the twentieth century, namely 1910 to 1930. In fact, the foundation of institutionalized anticommunism in Greece began during the 1910 to 1920 decade when, owing to the impact of the October Revolution, the Socialist Labor Party (SEKE) was founded in 1918, which a little later in 1924 was renamed the Communist Party of Greece (KKE) (Moskof 1979: 413–414).

As early as 1919, the first overtly anticommunist, repressive legislation, with its special administrative measures against the newly organized Greek labor movement, was introduced and implemented by Venizelos, who legalized the first "administrative deportations" in Greece for purely political reasons. He extended the brigandage law provisions used since 1871 to include every person

suspected of disturbing the "public security" (Law 121 of 1913, Art. 2). Similarly, Venizelos enacted Law 755 of August 18, 1917, which extended compulsory preventive deportation, not only for every acknowledged spy but also for everyone *suspected* as a threat to public order.[1]

Venizelos' anticommunist campaign intensified following the Asia Minor defeat of Greece by Turkey and the influx of more than a million refugees, many of whom favored KKE, especially after Venizelos and Ataturk had settled the Greek–Turkish conflict and Greece renounced all its claims over Turkish territory. During 1928 to 1932, when the rising Greek labor movement significantly increased its strike activity, permanent police stations were established throughout the country, and in February 1929 the Special Police Security Directorate was formed for more systematic surveillance and the persecution of leftists and sympathizers. Also during that time the first disciplinary military concentration camp, used mainly for the incarceration of communist conscripts, was founded in Kalpaki of Epirus (Koundouros 1978: 109f.; Moskof 1979: 460; Alivizatos 1983: 390).

The landmark law of the Venizelos' anticommunist armory was Law 4229 (July 25, 1929), the so-called *idionymo* law, which enacted "measures for the security of the existing social regime." It introduced, in effect, the criminalization of communist ideology without banning the Greek Communist Party, KKE. It prohibited not only specific political ideas such as communism, but also any idea or deed which could be presumed a threat to the rulers. Named *idionymo* because it introduced a new crime (i.e., the "thought crime"), this law legalized state anticommunist terrorism from that time forward, and became the legal cornerstone of official Greek anticommunism until 1974, when the military dictatorship collapsed and KKE became legal (Alivizatos 1983: 360–374; Koundouros 1978: 81–94; Lazarides 1979).

This precocious anticommunist armory of the Greek interwar state, together with the extreme severity with which it was implemented by a liberal political leader, and not a dictator, against a miniscule communist party, reflects the fears of Greek, European and American governments of that time. They perceived a popular "threat from below" which had been fueled by the "Great Red Scare" in the U.S. and Western Europe following the Bolshevik Revolution in Russia (Lazarides 1979). On the other hand, anticommunism helped to unify the Greek middle class which had been split over the monarchy issue; the conflict between Prime Minister Venizelos and King Constantine I regarding the foreign policy of Greece in the First World War and a subsequent deep personal rift between the two had caused a national schism, dividing Greece into two radically opposed political camps, the Venizelists and Royalists. Furthermore, early anticommunism in the interwar period consolidated in Greece the ideological and repressive state apparatus which legitimized the repressive curbing of the rural and labor movement, strengthened by the refugees following the 1922 Asia Minor defeat of Greece by Turkey.

From 1935 on, however, this coercive anticommunist legislation and security apparatus backfired on its implementers, the liberal Venizelists, when the

monarcho-oligarchic regime was re-established. In fact, during the fascist-oriented Metaxas dictatorship from 1936 to 1941, the anticommunist legislation and security armory founded by Venizelos were used to persecute not only leftists and communists but also all anti-Royalists and liberal Venizelists (Linardatos 1965; Alivizatos 1983: 404–411). Yet, the Metaxas dictatorship perfected the Venizelist armory, shaping it into a long-lived political control "technology" which included the following:

1 An overcentralized, bureaucratic security apparatus directed by the notorious deputy ministry of public security, which supervised all state agencies and conducted systematic surveillance of *all Greek* citizens.
2 Use of the "civic-mindedness certificates" issued by local police and based upon the police surveillance records (files). These certificates were designed to reward loyal citizens and to punish dissidents who, without them, could not obtain public jobs, permits, licenses, passports, benefits, etc.
3 Use of so-called "repentance declarations." These were required for the release of all political prisoners, or of anyone wishing to be cleared of a communist stigma, either inherited or ascribed.
4 The increase and extension of mass deportations, and the organization of concentration camps as specific anticommunist reconversion "laboratories." These concentration camps used mixed physical and psychological terror against communists and other leftists.
5 The organization of most of the countryside, particularly the lengthy northern border areas, into militarized, "surveillance" or "prohibited" zones, with reference to the "internal enemies." In these "defensive" areas, which included almost all of northern Greece with its over one million inhabitants (in 1961), the security forces and the militia (TEA) exercised total control, including physical and psychological repression (Alivizatos 1983: 420–433; Elefantis 1991: 256–262f.; Koundouros 1978: 106f.; Linardatos 1966; also Burks 1955: 154; Kousoulas 1965: 126f.).

This entire pre-Second World War anticommunist "technology," restored and perfected during and after the Greek Civil War (1947–1949) by concrete U.S. legislation and political control technology, was implemented until 1974 when the military dictatorship collapsed and KKE was legalized.

4.3 The post-civil war mass anti-communist repressive surveillance in Greece with U.S. aid and guidance (1949–1974)

I have used the term "Greek McCarthyism" (Samatas 1986b) to characterize the Greek post-civil war anticommunist crusade based mainly on the fact that specific U.S.-made anticommunist legislation and thought-control techniques, used extensively during the Truman-McCarthy era, were imported in post-civil war Greece to reinforce its anticommunist armory. In fact, at AMAG's (American

Mission to Aid Greece) suggestion, Greece adopted U.S. legislation and procedures to purge communists and sympathizers from the civil service and to develop an anti-subversive security apparatus modeled on the U.S. version (Alivizatos 1983: 477–487, 566–578). Greece also adopted U.S. ideological warfare technology and indoctrination techniques (Iatrides 1981: 62–65).

4.3.1 Repressive "thought control"

Since "mind-probers" could not actually read thoughts, they had to investigate all aspects of an individual's life. They searched not only for factual, documentable "wrongdoing," but also for any potential "wrong-thinking" that might result in *future* "wrongdoing." In fact, in the name of "national security," many people were severely punished, not for who they were or what they had actually done, but rather for what the authorities assumed they were or could potentially become. This "mind-probing" search included "the petitions one signed, the groups one joined, the books one read, the friendships one had, and the statements one made" (Goldstein 1978: 392; Millis 1968: 64).

Proof that thought rather than real, concrete action was the target of anticommunist operation is demonstrated by the fact that political repression was based primarily upon "preventive" law – that is, executive, mostly "para-constitutional" legislation – which deliberately uses vague terminology to violate constitutional rights, justifying repression on the grounds of national security (O'Brien 1955: 22). "Preventive" law legalizes many repressive measures, such as precautionary detention, or the precautionary exclusion of individuals or groups from certain employment or other activity on the grounds of potential harm to the "national interest" or to national security. These repressive measures were justified on the suspicion that the victims are "potential subversives" who, either implicitly or explicitly are "likely to commit some illegal overt act in the future even if [they] had not already done so" (Goldstein 1978: 392).

Because "thought control" and punishment are difficult to legitimize (although not to legalize), "preventive" law employs para-constitutional (and frequently illegal) techniques (surveillance, mail-opening, blacklists, etc.) which ignore civil liberties guaranteed by the constitutional protection of due process. Facilitating "preventive" law is the use of deliberately vague terminology: "disloyalty" instead of treason or sedition; and "lack of faith in the national ideals" or "belief in ideas aiming at the violent overthrow of the established sociopolitical order" instead of espionage or sabotage (Goldstein 1978: 393; Alivizatos 1981: 224–227).

The fact that the anticommunist crusade considered the leftist-communist political ideology itself as the major "thought crime," regardless of the commitment of an actual crime, is evidenced by the fact that "loyalty oaths" or the signing of "loyalty statements" were required for all state employees and soon for all citizens.

A number of Greek "emergency laws" like 512 and 516 (1948), as well as a similar law 1540 (1950), restated almost verbatim the basic civil service

loyalty-security provisions of U.S. law, but prescribed harsher penalties.[2] By introducing the fundamental concepts of "loyalty" (*nomimofrosyni*) and "disloyalty," this legislation became the legal justification for thought-control investigations of civil servants, which were eventually extended to all Greek citizens. The criterion of "loyalty" as a qualification for public employment in Greece legitimized a repressive apparatus which judged an employee's current loyalty on the basis of his previous associations, activities and beliefs. Without an explicit definition of "disloyalty," the executive order equated it with membership, affiliation or "sympathetic association" with certain types of groups. By this means it was established as the precedent for a crime of belief and association, rather than for the punishment of actual deeds and activities. The implementation of Greek "loyalty" laws was also very similar to the U.S. "Loyalty Order," which set up "loyalty boards" in all ministries and units of the public sector.[3]

Emergency Law 516 (1948), like the U.S. loyalty program, gave Greek loyalty boards the authority to decide on all present or prospective public employees' loyalty status based on any written or oral information they received from any pertinent available information source (Harper 1969; Kovel 1997). Unlike the U.S. loyalty order, however, the Greek law did not establish any boards to hear testimony from the accused; nor did it permit any appeals of its decisions to the courts. In addition, the same Greek loyalty law legalized the mass signing of "loyalty statements" by *all* public servants and those in agricultural cooperatives. "The refusal to sign such a statement constitutes proof of disloyalty for the employee" was stated explicitly in Article 4, paragraph 3 of Law 516 (Alivizatos 1983: 486).

To implement these loyalty laws the Greek security apparatus had to be modeled on its American counterpart to enjoy direct U.S. assistance, training and technology (Iatrides 1980: 67f.). Hence, the Greek Public Order Ministry organized a central information databank similar to the FBI's security index list, which contained the names of all dissident, communist or leftist citizens and "disloyal" fired or "repentant" civil servants. Until 1974 this political information databank was updated and used constantly to blackmail citizens, and especially public employees, through occupational proscriptions and other repressive measures. Under the guidance of the American Military Mission to Greece, the Greek Central Information Agency (KYP), modeled on and named after the CIA, was established to coordinate the anticommunist, anti-subversion campaign, and became the official agency fighting the internal enemy. Just as the CIA and FBI used illegal tactics, so did KYP engage in large-scale surveillance, wiretapping and mail opening, monitoring all vital government agencies, including the press and information departments of the Prime Minister's office. Yet, under the U.S. Embassy guidance and through the Sixth Fleet surveillance, many Greek communist were captured as Soviet spies. Among them was Nicos Beloyiannis, a prominent communist intellectual leader whose execution in 1952 resulted in worldwide outcry. In addition, many Navy and Air Force officers were tried as "red saboteurs" (Iatrides 1980: 56, 66–67; Wittner 1982: 150–154).

The anticommunist security apparatus had also organized a whole country-wide network of private informers, who numbered around 60,000 on secret payrolls in 1962 (Tsoucalas 1981: 328). They were mostly ex-communists and lumpen proletarians who purchased their personal safety by giving information to the police.

4.3.2 Guilt by association: collective family responsibility

The anticommunist loyalty process reinforced mass conformity through civic-mindedness certificates, repentance statements, and loyalty oaths that required denials not only of one's past but also of the activities, beliefs and associations of one's relatives and friends. Since the basic goal of mass anticommunist repression in Greece was the protection of the country from "ideological contamination" by communist (or other) ideas officially labeled "dangerous," repressive measures targeted not only "habitual wrong-thinkers" ("commies," "pinks," "fussy-minded liberals," etc.) but also all critical thinkers, including their own relatives and friends (Catiforis 1975: 62–63). Guilt by association charges in the U.S. McCarthyite era involved associations with mothers, fathers, wives, brothers and sisters (Goldstein 1978: 302–304). In Greece, this institutionalization of the collective responsibility of an accused's entire family was accomplished through the use of the so-called "civic-mindedness certificates" (*Pistopoiitika Koinonikon Fronimaton*). These certificates were issued by police only to "clean," "healthy thinking" or "nationally minded" citizens, the so-called *ethnicofrones.* They were denied to all other Greek citizens, who were then stigmatized as communists, fellow-travelers and sympathizers (i.e., the *non-ethnicofrones*). Civic-mindedness certificates based on police surveillance records, and documented in special dossiers (*Fakeloi*), were officially required until 1974 for any Greek who wanted a public job, professional permit, passport, driver's license, even a scholarship or university education. Collective responsibility was heavily applied to Greek communists' close relatives, and many of them, irrespective of their own ideas and politics, had their property seized and were exiled. Many children of murdered, deported or exiled communists were forcibly detained in special camps for their reconversion and rehabilitation in Leros Island, under the auspices of Queen Frederica.

Significantly, these police certificates – and the attendant police dossiers which not only classified the "loyalty status" of a citizen based on his personal ideas and activities, but also took into serious account the convictions and behavior of the entire family records – were active until 1974 and the files survived until 1981 (Samatas 1986a: 168–169).

4.3.3 The political de-stigmatization procedure

Any candidate for public service, emigration or the merchant marines who was politically stigmatized as *non-ethnicofron* (even by association through a relative) had to be de-stigmatized officially by going through *apochromatismos*

(i.e., the political "de-colorization" or de-stigmatization procedure) (Alivizatos 1983: 593–594; Samatas 1986a: 170–172).

In fact, *apochromatismos* was required not only of all "reconverted" ex-communists, but also of all who did not have a recorded loyalty status. They needed to establish such a status in order to gain access to public jobs and benefits. During the right-wing police state (1952–1963), and again during the military dictatorship (1967–1974), anyone who was not a leftist could be stigmatized as a crypto-communist or a communist sympathizer if he had not been officially classified as ethnic-minded (*ethnicofron*). Yet, the *apochromatismos* procedure clarified the loyalty status of those whose political views were not clear to the authorities. Those who had never publicly declared themselves either *ethnicofrones* or leftists were forced to make public their loyalty and *ethnicofrosyni* when applying for passports, drivers' licenses, etc., with proper loyalty statements. *Apochromatismos* also gave those who had been stigmatized as communists an opportunity to return to the "healthy family" of *ethnicofrones* by signing repentance declarations, including loyalty statements and self-incrimination oaths. Everyone who had not voted in the 1946 elections (the Greek left parties abstained), who had voted United Democratic Left (EDA) in 1956, who was reading the leftist daily *AVGI* (*The Dawn*), or who had associated with members of the leftist party EDA or the leftist youth organization "Lambrakis" was recorded as "crypto-communist"; they could be "decolorized" if they agreed to sign a number of police repentance documents which declared loyalty to the regime (Alivizatos 1983: 594, n. 161). They were also required to publish a standard loyalty statement in one of the local daily papers renouncing past politics, beliefs, and any friend or relative who had subversive records.[4] In Greece, communists sentenced to death could often save their lives just before execution by renouncing their ideas and their past politics; political prisoners and deportees could be freed as soon as they had signed "declarations of repentance," or recantation statements, which renounced their ideology and declared their loyalty to the regime (Alivizatos 1983: 226–227).

All who were de-stigmatized through the *apochromatismos* procedure were then classified in the police files as *ethnicofrones* of second grade (E2), compared to the pure and original *ethnicofrones* (El) (Samatas 1986a: 400–401; Samatas 1986b: 33).

4.3.4 Public employment and benefits as mass loyalty incentives

Poor post-war economic conditions, including high unemployment, which created a pressing need among the Greek population for public jobs and/or benefit assistance, reinforced the overall power of the state to impose mass loyalty. Public employment became a very significant socio-economic mechanism for upward mobility, and also provided a very effective mechanism of political control. Public employment was particularly attractive to every educated, jobless person who, in return, had to agree to refrain from any disloyal activity, reject any leftist relative or friend, and find ways to demonstrate his

(and his family's) clean national conviction (*ethnicofrosyni*) (Tsoucalas 1981: 322–323).

By 1951, one-third of the Greek population was completely or partially dependent on public subsidies. This included large numbers of uprooted people (over 700,000) who had been moved forcibly from battle zones to the urban centers of Athens and Thessaloniki (Tsoukalas 1986: 22–23). The distribution of public jobs and subsidies was, in essence, a form of blackmail, since these impoverished people received aid *only* if they were loyal to the regime. The civic-mindedness certificate was required for any public job, aid, scholarship, professional permit – even for a passport to emigrate or to work in the merchant marines. At the same time a whole new class of ship owners, industrialists, importers, traders and profiteers exchanged their anticommunist credentials for lavish state financing, public subsidies, permits and commissions. Most of their profits were then exported abroad. Visceral anticommunism and/or nationalist convictions (*ethnicofrosym*) became the keys for access to public funds, and to tax and legal immunities for these new profiteers and the new oligarchy (Vergopoulos 1981: 311–315).

4.3.5 The Greek anti-communist "apartheid"

Greek anticommunism extrapolated the civil war schism to the *entire* Greek population. Greeks were deeply divided into two categories: the "healthy," "clean," nationally minded *ethnicofrones* – first-class citizens – and the rest. The "rest" were the sick, non-nationally minded *miasma* – the second class – including not only communists, leftists and sympathizers, but also anyone "disloyal" (i.e., not actively demonstrating conformity and obedience to the anticommunist state) (Alivizatos 1981: 225–227; Tsoukalas 1981: 328–330).

The post-civil war Greek "Crowned Parliamentary Democracy" was simply a façade for an authoritarian police state (Charalambis 1985). The 1952 constitutional charter protected, in effect, only the rights of *ethnicofrones*, those "nationally minded" and "healthy-thinking" citizens. It discriminated against the rest. Repressive civil war emergency legislation (the so-called "para-constitution") was enacted to deal with dissenters. A "constitutional dualism" – to use Alivizatos' terminology – evolved: the coexistence of a 1952 Constitution nominally guaranteeing the civil liberties of the vanquished, with valid civil war emergency measures which overruled that Constitution. Thus a unique politico-juridical "apartheid" was sustained against the Greek left (Alivizatos 1981: 227; Catiforis 1975: 82). This politico-economic exclusion and discrimination was implemented by a large police bureaucracy which kept files on all Greek citizens. With a red pen, police underlined critical information about citizens (and/or their relatives) who had been stigmatized as communist, leftist, sympathizer or "crypto." The police file (*fakelos*) and the police-issued civic-mindedness certificates implemented that brand of totalitarianism which entailed collective family responsibility and mass political surveillance by using hundreds of police informers (Samatas 1986b: 35).

Until 1974, all Greek citizens were categorized as *ethnicofrones* of the first grade (*Epsilon one*, El), the second grade (*Epsilon dio*, E2), "Alpha" leftists (A), "Beta" crypto-communists (B), "Gamma" dangerous communists (Γ), and X, the unknown (Samatas 1986a: 400–401). *Ethnicofrones* could easily be stigmatized as leftist sympathizers and leftists could be de-stigmatized through the aforementioned *apochromatismos* procedure.

In addition to the political ostracism of KKE (which ended in 1974), the following conditions prevailed: occupational proscriptions of all leftists from the public sector and from educational institutions; loyalty oaths for all civil servants; strict censorship, martial courts and a manipulated electoral system; educators and faculty firings; mass anticommunist indoctrination by the state and the military radio and TV; and similar indoctrination by the official state educational system. These features of a distorted parliamentarianism characterized not merely a U.S. "guided democracy" but rather a repressive, constitutional police state. The ultimate result of this hybrid regime was the naked military dictatorship which began on April 21, 1967 and which lasted until August 24, 1974.

4.3.6 Defiance and resistance

The Greek post-civil war repressive anticommunist campaign did not succeed in rooting out the leftist ideology inspired by the EAM liberation movement. Its failure is reflected in post-civil war election results.

Despite political control repression and mass surveillance, shortly after the end of the civil war, in the first elections in 1950 the leftist party of the "Democratic Array" garnered 163,800 votes (10%) and elected 18 deputies. This was remarkable in view of the 65,000 political prisoners in concentration camps and jails (3000 of them under death sentence), and the para-state terrorism in the countryside (Linardatos 1966). In addition, in the September 9, 1951 elections, peace amnesty democratization themes of the leftist and centerist parties resulted in their winning 34 percent of the vote. This alarmed Americans, who considered a serious problem the ten deputies of EDA (United Democratic Left) who were elected by communist votes. U.S. Ambassador John Peurifoy, who had a specific mission "to bring about the establishment of a powerful, stable and uncompromisingly anti-communist Greek government," contributed to the overwhelming victory of General Papagos' anticommunist Greek Rally Party in the November 16, 1952 elections. Despite that, in the 1958 elections the United Democratic Left (EDA) polled 25 percent of the vote and became the chief opposition party. In the rigged elections of October 1961, November 1963 and February 1964, the Center Union, a coalition of various liberal forces led by George Papandreou, won 53 percent of the vote and defeated the right-wing ERE, which polled only 35 percent (Meynaud and Karanicolas 1973).

This electoral resistance of the Greek people and their defiance of the repressive anticommunist state also reflects the popular discontent and rising sociopolitical unrest and mobilization of the late 1950s and early 1960s. Yet this resistance is even more fully appreciated if we acknowledge that increased

dissent resulted in increased repression. For example, only 124 "undesirable" citizens were deprived of their Greek citizenship during the 1948 to 1949 civil war years, but 21,997 citizens were so deprived during the constitutional period 1952 to 1967. The zenith of this administrative measure – which was usually followed by the seizure of a citizen's property, thus imposing both "political and financial death" – occurred during the 1954 to 1959 period of the right-wing police state (Alivizatos 1983: 491).

Although the bloody civil war ended in 1949, it was legally prolonged until 1962 through a shrewd juridical construction. This was based on the "theory of permanent civil war," as Alivizatos (1981: 227) calls it. In 1962, the post-civil war emergency legislation was formally abolished and the last concentration camp had temporarily closed (until 1967) under pressure from the European Economic Community, with which Greece had signed an agreement in 1961.[5]

The following military dictatorship (1967–1974) further exploited surviving anticommunist legislation by using it against all of its enemies, including many traditional *ethnicofrones*, who opposed the colonels. In this way Greek anticommunism was reinforced by naked dictatorial violence without either parliamentary veil or legal restrictions. As a result, the persecution of those who did not support the military regime – even political conservatives and nationalists – resulted in totally discrediting not only the military junta but also the entire anticommunist operation (Samatas 1986b: 43).

4.4 Impacts and legacies

The post-civil war anticommunist campaign in Greece, which was heightened during the military dictatorship (1967–1974), frustrated national reconciliation for more than 30 years following the civil war (1947–1949); it inhibited democratization and modernization of the Greek state, politics and society, since its legacy of political polarization lasted until the 1980s. Greek institutionalized anticommunism formally ended with the collapse of the military junta in August 1974, and the subsequent legalization of the Greek Communist Party KKE (Diamandouros 1983a, 1983b).

In the first post-dictatorial period 1974 to 1981 remnants of many repressive controls and discrimination against the left (Samatas 1993) strengthened the opposition leftist forces and the anti-American sentiments of Greek people due to the U.S. anticommunist intervention in Greece. In the elections of 1981 the Panhellenic Socialist Movement (PASOK) under Andreas Papandreou won a great victory, promising a radical political change (Clogg 1993; Sotiropoulos 1996; 2009; Spourdalakis 1998), and the abolition of all political discrimination with the destruction of the notorious police files.

Despite governmental failure in many other fields, the first PASOK government put an official end to institutionalized anti-communism through: (1) the abolition of surviving civil war anti-communist legislation; (2) official recognition of the EAM/ELAS resistance movement; and (3) unrestricted repatriation of Greek political refugees. Yet, the PASOK government revealed the complete

picture and the totalitarian dimensions of the anticommunist filing (*fakeloma*) on March 7, 1982. The surviving anticommunist apparatus under the supervision of conservative governments had created a "dossier society" with 41.2 million files for the total 9.5 million Greek population. Thus, for most Greeks, there were multiple political control files; 25.5 million of these files contained strictly politico-ideological information (Samatas 1986b: 52–53). Although the first PASOK government had promised in 1984 to destroy all kinds of police files, it finally did not. Both ruling parties – PASOK and New Democracy – transformed the issue of ending traditional surveillance/"filing" from a political problem related to issues of democracy, justice, civil liberties and human rights, into a narrowly populist issue designed purely to gain electoral advantage. The "surveillance issue" was consequently reduced to a rather simplistic question of whether "to burn or not to burn" the obsolete police paper files. The post-PASOK left and right coalition government of Premier Tzanetakis set fire to the notorious police files on August 29, 1989, a commemoration day of 40 years after the end of the civil war; it is estimated that approximately 16.5 million files were ritually burned throughout Greece on that day (Eliou 1989; Samatas 1993, 2004: 64–65).

The legacy of mass political surveillance in post-dictatorial Greece has reproduced a negative surveillance culture and a popular mistrust of any state and police surveillance. Greek citizens who have experienced some of the most immediate and repressive forms of state surveillance are afraid of any state and police filing, which can potential classify them and their family members to exclude them from public benefits. They have learned to mistrust any state personal data collection, even for legitimate purposes. Hence, there is a popular demonization of any state surveillance, even for public safety, taxes or traffic control (Samatas 2008). Thus, especially for the older generation who have experienced the authoritarian political control surveillance, the problem is not watching (*parakolouthisi*) (i.e., "face-to-face surveillance") but "filing" (*fakeloma*) of personal data. Every legitimate "institutional surveillance" in a democratic state presupposes trust in the state/public and private institutions, based on the privacy protection and human rights respect (Lianos 2003); due to the authoritarian past, this institutional trust has never really existed in Greece. Hence, this "filing," a "file-based, bureaucratic surveillance" (Lyon 2001: 76–83), is always perceived as a negative term in Greece and a process which can entail sanctions and discrimination, detrimental for life chances of all extended family members (Samatas 2004).

With regard to the anticommunist surveillance impact on the Greek family, it is worth noting one legacy which afflicts other historically repressive regimes but which does not seem to have occurred in Greece. For example, despite the similarities between the surveillance systems used in Greece and in East Germany, both of which relied on an extensive system of police files and informers, Greek post-civil war surveillance never assumed the highly personalized characteristics of East Germany (Funder 2004). Friends and lovers in East Germany routinely spied on one another, and subsequent revelations about such

practices have seriously eroded or destroyed family ties. Although comparative research has not yet been done, I will provisionally argue that Greek repressive anticommunist surveillance did not manage to erode Greek families. Collective responsibility of family members for their political beliefs and actions has rather reinforced Greek family ties, and solidarity has survived comparatively intact in the post-dictatorial period (Pollis 1977; Tsoucalas 1981; Samatas 2010).

At the same time, the personal histories of directly experiencing repressive forms of surveillance have a different implication in the current era of "new surveillance." Most Greek people, especially those middle-aged and older generations who directly experienced authoritarian surveillance, tend to ignore or disregard other forms of non-state surveillance. Having experienced some of the most immediate and transparent forms of state-repressive surveillance, they are not bothered by non-state surveillance and the electronic data-collection galaxy, most of which is commercial. Such indifference is particularly acute in many young Greeks who were born long after the end of military dictatorship in 1974 (Samatas 2004).

In brief, the defiance and resistance of many Greeks who, despite prolonged and repressive surveillance regimes, contributed to the restoration of freedom and democracy in Greece, is an optimistic message about the prospect of resisting authoritarian surveillance regimes; this is yet another legacy of the repressive Greek surveillance system. On the other hand, popular sensitivity and vigilance against any state and police monitoring and filing in Greece inhibits state surveillance legitimacy, modernization and efficiency; and at the same time it bans state surveillance expansion against hard-won civil liberties (Samatas 2008).

Notes

1 For details on Venizelos' legislation, see Alivizatos (1983: 342, 347–350). For the first prosecutions of Greek socialists under these laws, see Elefantis (1991: 46f.).
2 Mainly: (1) the "Hatch Act" of August 2, 1939, which was passed to prevent "pernicious political activities"; (2) the U.S. Civil Service Commission Circular 222 of June 20, 1940, which was issued in accordance with the Hatch Act and Smith Act. These acts permitted the immediate dismissal of participating civil servants and the rejection of any applicant for a public position who was found to be engaging in "illegal" political activities (Alivizatos 1983: 481f.).
3 The Loyalty Order of March 21, 1947 (Executive Order 9835), issued by President Truman, initiated over three million loyalty investigations by both the House Un-American Activities Committee and Civil Service loyalty boards (Goldstein 1978: 300–301).
4 See images of such loyalty published statements in Samatas (1986b: 62–63).
5 Thus, even in 1962, when the last concentration camp had temporarily closed (to reopen in 1967), there were still 158 political prisoners who had been confined since the civil war. In addition, in 1962 and 1963, about 400 Greeks each year were deprived of their citizenship for political reasons. Thus, no year in the entire pre-dictatorial parliamentary period (1949–1967) was without political prisoners (Alivizatos 1983: 543f.).

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5 Aspiring to modernization

Historical evolution and current trends of state surveillance in Portugal[1]

Helena Machado and Catarina Frois

5.1 Introduction

In various countries throughout the world, the bureaucratic development of the modern states has been accompanied by the creation of identification systems whose purpose is to collect, store and manage personal data about its citizens. In this chapter we analyse the relatively long and uninterrupted history of the state's collection of personal identification data in Portugal in diverse modalities: from the early attempts at the beginning of the twentieth century to identify and classify criminal male population by using anthropometry methods, to the successive attempts to expand fingerprint databases for civil and criminal purposes to all populations, to the more recent establishment of a national DNA database for criminal and civil forensic identification and the intention of implementing CCTV (closed-circuit television) in open areas on a national scale.

The comprehensive analysis of these processes in the Portuguese context is especially relevant due mainly to the fact that, on the one hand, we are considering a country with a long history of a political dictatorship in the twentieth century (1928–1974) characterized by political and police repression and censorship and, on the other hand, a newly democratic state divided between the quest for modernization and uniformity by following the paths of surveillance implemented in other European countries (considered to be more advanced) while at the same time struggling with its own cultural and social specificities marked by scarce economic resources and low criminality rates. From our point of view, it is intriguing that Portugal has a long and social history of citizens' apparently passive compliance with the state's requirements of collecting diverse sorts of personal identification data and, at the same time, both national and international studies suggest that public confidence in the state, the police and the justice system is weak in European terms (Cabral *et al.* 2003). In fact, this is one of the countries in which the majority of respondents consider that the institutions that are most affected by corruption in the country are politics, business, the police and the judiciary (Transparency International 2011).

We explore possible explanations for this phenomenon of a combination of low confidence in the state and in the criminal justice system with the absence of a public outcry over the state's mechanism of surveillance of its citizens. To do

so, we develop a comprehensive approach to the phenomenon of public distrust of the state in the context of surveillance for civil and criminal purposes based on different methodologies in multi-sited research, such as the analysis of the historical evolution of legal regulation pertaining to identification systems for civil and criminal investigation – databases containing fingerprints, criminal records and DNA profiles, or the use, since 2007, of CCTV in open areas.

Our main goal in this chapter is to give an account of the most significant transformations that have occurred in Portugal since about the mid-twentieth century, showing how the indelible mark of an authoritarian legacy of dictatorship continues to produce effects on Portuguese life up until today, particularly in two major spheres: first, at the cultural level of mentalities; and second, at the political level in terms of political party dynamics and institutional relations. Fully understanding the process of developing state surveillance mechanisms in Portugal – from video surveillance, to the mandatory request that all citizens carry an identification card and provide their fingerprints for civil purposes, to plans to develop a forensic genetic database with profiles of the entire population – requires paying close attention to this country's recent history, particularly the period extending from the mid-1970s up until the present. Besides allowing one to confirm the recurrence of the modernization discourse, this helps to highlight yet another significant aspect that is directly linked to the legacy of nearly four decades of political dictatorship. We begin by describing the early steps in creating a modern criminal identification system that occurred at the beginning of the twentieth century. We then go on to consider a range of issues that have arisen for the understanding of surveillance, not only during the long period of dictatorship – *Estado Novo* (1933–1974) – but also in the present day.

Later, we provide a contemporary overview of state surveillance in Portugal that assumes the relevance of historic events towards understanding current developments. Although it may seem controversial to feed our interpretation of the current situation through past events, the aspiration to provide a clear reading of the country's recent history must start with recognizing not just that such an aim is ambitious, but also that however objective or circumscribed its conclusions strive to be, they can never attain a character of finality.

5.2 First steps in establishing a criminal identification system

As in various other countries throughout the world (Cole 2001), the bureaucratic development of the modern Portuguese state was accompanied by the creation of modern criminal identification systems in the beginning of the twentieth century. In 1902, anthropometry became the official method for identifying prisoners in Portugal. All male prisoners were subjected to an examination in which their bodies were measured with millimetric precision, and their physical characteristics recorded with intended scientific rigor (Madureira 2003: 284).

It was not long before fingerprinting overtook anthropometry also in Portugal from the time when the first corpse was identified with the help of fingerprinting techniques in 1904. Fingerprinting rapidly became part of daily police practice

and was also used for civil identification purposes. The first attempt to create an archive of citizen data for civil identification dates back to 1912 and resulted from the initiative of the Republican government, which had abolished the monarchy in Portugal two years earlier. The government planned to introduce identity cards to be held by all state employees, which would include fingerprints taken from the five fingers of the right hand, a photograph, and a description of distinguishing features. In other words, the aim was to use the scientific knowledge and techniques employed in criminal identification for the purposes of civil identification.

This first attempt at systematically collecting and storing civil identification data from the whole population failed, but in the following decades, additional attempts to expand the fingerprint database were successful. These attempts to create a universal fingerprint database for forensic and civil use in Portugal were paralleled by developments in countries such as Argentina in the 1910s, and in the US in the 1930s and early 1940s (Cole and Lynch 2010: 112). However, contrary to what happened in most other countries, where efforts to include non-suspect citizens in databases were a failure, in Portugal, following initial resistance, civil uses of fingerprint databases continued to expand in a relatively uncontroversial way. An illustration of this surveillance expansion is the creation, in 1927 (Decree 13254 of 9 March), of the regional identification archives that combined both criminal and civil competences. In the same year, compulsory identity cards were introduced for all professions and for those seeking admittance to any secondary school or university. Identity 'cards' were in fact four-page documents, including the holder's name, parentage, birthplace, date of birth and profession, as well as details of any distinguishing features, a photograph, fingerprint and signature (for those who knew how to write).

As we will describe in the next section of this chapter, in the following years during more than four decades of dictatorship, the state collection of citizens' personal data expanded intensively. The identification of individuals no longer served strictly criminal purposes but instead both civil-administrative and forensic goals, and it was reframed as a matter of collective security (Madureira 2003).

5.3 *Estado Novo*

The *Estado Novo* was the authoritarian regime installed in Portugal in 1933, following the military action on 28 May 1926 that put an end to the unstable Portuguese First Republic and initiated the National Dictatorship developed by António de Oliveira Salazar, ruler of Portugal from 1932 to 1968. *Estado Novo* would only end in 1974, lasting for about four decades. The regime, basically an embodiment of the values devised in the triangle *God-Nation-Family*, translated into a strategy that progressively led to the isolation of Portugal from the rest of Europe, in favour of a political and economic project that insisted on maintaining a colonial empire over countries such as Guinea-Bissau, Angola, Mozambique, East Timor, São Tomé and Príncipe.

The essentially conservative and catholic direction of *Estado Novo*'s political and economic project was reflected internally by an ideology of power that extended to all social spheres, enforcing its overwhelming authority through such means as political and cultural censorship (most notoriously control over all media and communication channels); the increasingly pervasive interference of a political police (PIDE – whose acronym may be translated as State Defence International Police) and the promotion of rural subsistence and state corporatism. As Costa Pinto (2010) describes it, *Estado Novo*'s political regime inherited the previous military dictatorship's repressive machinery, adding to it the mechanisms of propaganda and intelligence and making its organs increasingly more dependent on the direct control of the single authority figure of Salazar, whose role as leader of the nation gradually assumed an almost messianic character, as the country's "saviour". The whole public administrative apparatus was centralized in the hands of the regime, which notwithstanding some essential differences, to a certain degree followed the contemporary political trends of other systems similar to those instituted by other European leaders, such as Franco's military dictatorship in Spain, or even the fascist states of Mussolini and Hitler.

António de Oliveira Salazar, basically a traditionalist both ideologically and culturally, had an absolutely anti-liberal view of state affairs, which he considered should be put at the service of a political project based on the philosophical identification of religious and nationalistic values. His total rejection of a democratic society was supported by an organic conception of the state, which implied resistance to all the advances of modernization, considered more as threats than as models. His idea of popular education was closely linked to a system of indoctrination, breeding the exaltation and revival of the nation's past grandeur, its conquests and colonial riches, thus casting out all values that were contrary to the regime, and otherwise smothering ideological open-mindedness (Costa Pinto 2010).

The Salazarist regime, despite its authoritarian quality, cannot be completely identified with the fascist model imposed in countries like Germany and Italy. It is true that the *Estado Novo* rejected the democratic model, and even though theoretically other political parties were never legally prohibited, in practice it established a single party system that was similar in many respects to other European dictatorships. In any case, obedience and submission to the regime would in time imply an ever more extensive network of its intelligence services, through the dissemination of the political police (PIDE) throughout the whole Portuguese territory – in which the so-called ultra-maritime regions were included. This involved the creation of prison and deportation camps specifically intended for political opponents, such as the Tarrafal Fortress in Cape Verde (Mateus 2004). The primary mission of the political police was to detect and neutralize political opposition, mainly communist and anarchist activists, and, according to Fernando Rosas (1989), may be said to constitute the backbone of the regime. This entity's actions relied on a powerful apparatus of surveillance, through a system of information gathering and investigation that allowed it to carry out persecutions and political cleansing. This activity served the purpose of

perpetuating the regime's longevity through "civil demobilization, instilling fear, subservience and generalized intimidation" (Rosas 1989: 27).

Besides the instruments of censorship and police control, many other organisms were created to ensure the maintenance of public order and security, namely those whose structure was based on the recruitment (in some cases compulsory) of citizens, and whose activity relied on the active participation of its members. The policy of state corporatism in which the regime was rooted further enhanced its authoritarian character, insofar as enabling it to control the country's economic activities and determine working conditions. The *Estado Novo*'s value system thus created "an apparatus of authoritarian and statist ideological inculcation embedded in people's everyday lives (within the family, school and recreational activities), which crossed all spheres of social life, seeking to mold society after the image of its head of state" (Rosas 2001: 1031). Illustrative of the surveillance apparatus of *Estado Novo* was the creation in 1944 (Decree 33555 of 21 February) of the Department of Identification Services (*Direcção dos Serviços de Identificação*) which would include the Criminal Register and Police Records General Archive (*Arquivo Geral de Registo Criminal e Policial*) and the Civil Identification Archive (*Arquivo de Identificação Civil*). In an article published in a legal journal in 1960, a famous law professor, Adriano Moreira, wrote that "it can only be advantageous for a small country to possess a general dactyloscopic file for civil and criminal identification purposes" (Moreira 1960: 234); he continued:

> Although not everyone will be convicted or imprisoned, everyone will need an identity card and therefore within a few years we will have a dactyloscopic file for the whole population. We could also adopt the system of compulsory fingerprinting for this purpose, for example, for individuals of school age.
>
> (Moreira 1960: 234)

Official procedures for criminal identification were transposed to civil identification, and the identity card appears to have entered into the everyday life of the population without contestation. Since around 40 per cent of the Portuguese population was illiterate until the 1960s, the identity card became a useful document for providing proof of identity, as a fingerprint could replace a signature for those who could not read or write (Frois 2008). Unlike the situation in other countries where the practice of taking fingerprints was associated with criminal identification (Cole 2001; Cole and Lynch 2010), citizens in Portugal appear to have accepted this "double use" until today without questioning its mandatory nature, as we will describe later in this chapter.

5.4 From the Carnation revolution (1974) to the present

The Carnation revolution (*Revolução dos Cravos*) was a military coup led by the Armed Forces Movement on 25 April 1974 that finally put an end to the dictatorship. The process of democratic transition, which became known as *PREC*

(Ongoing Revolutionary Process), was initially marked by some instability, giving rise to strong popular and political manifestations, and instances of extreme behaviour on both sides of the political spectrum that included political cleansing, or the attempted coups of left- and right-wing extremists (in March and November 1975).

The transformations that were operated in the political and social spheres during this time have left an especially deep and enduring mark on the country's development up until the present day. This is true for all spheres of Portuguese life, but even more so in terms of what may be referred to as "the weight of the past" on the collective imagination about the state's practices towards the control and surveillance of citizens. This is so because its common evocation and invocation in today's general discourse occurs independently of citizens' individual and direct experiences of the repressive and authoritarian system, which in fact is limited to the older generations. This dictatorship period symbolizes a form of existence which no one wishes to go back to, and which nevertheless is still occasionally revived.

More than searching for a thematic correspondence between the past and the present, our approach is focused on revealing the existence of a whole underlying mindset. In other words, we are not necessarily concerned with establishing a direct analogy between a political and ideological regime that relied strongly on surveillance practices and the apparent direction taken by recent political measures, with the result that this would probably limit our inquiry to determining the extent to which the latter constitutes a continuation or a break with the former, leading ultimately to overly rigid categorizations. Instead, this perspective will rely on the premise of a more flexible relationship of action and reaction, in which the past is continually called to bear on present events but nevertheless remains a strictly residual presence in contemporary democratic practice (Freire 2009). In the following sections we discuss the current development of state surveillance practices in Portugal. As we will see, nothing noteworthy seemed to have happened during three decades. The turning point occurred in 2005, with the state actively seeking to rely on technological devices such as video surveillance and DNA technology to fight crime and to assure public safety and well-being.

5.4.1 Video surveillance[2]

In Portugal, video surveillance in public spaces was initially conceived as an extraordinary measure, since its use – with regard to the invasion of privacy and its impact on the rights and freedoms that generally characterize modern democratic societies – could be justifiable only under exceptional circumstances. Whereas video surveillance had previously been restricted to confined spaces (e.g. commercial areas, gas stations and banks) and was managed by private security companies, in January 2005 Law No. 1/2005 authorized for the first time in the country the implementation of this technology in public spaces. It also gave the Public Security Police and the National Republican Guard the

authority to monitor and register the images collected in these areas. Video surveillance is interpreted, within the spirit of Law No. 1/2005, as an auxiliary mechanism intended to help fight crime and improve police efficiency and performance. The promotion of this measure rests on the premise that the use of this device will have a significant impact by deterring and preventing criminality, and also that it will be an extremely reliable instrument for the identification of criminals in post-crime investigations.

Which guidelines should authorizations to use video surveillance cameras comply with in this particular context; that is, in public space? Again, according to the legislation, the guidelines must follow a principle of proportionality, defined by the following conditions: (1) such use is permissible "whenever this type of equipment proves the best suited to ensure security and public order and to prevent crimes, and always taking into account specific features of the prospective area under surveillance"; (2) "the probability and extent of interference with personal rights" must always be taken into account; (3) the use of concealed cameras is prohibited, and the installation of "video surveillance cameras must always imply the existence of a real threat to security and public order".

Ten requests for video surveillance in public areas were submitted between 2005 and 2010, out of which five were granted. By the end of 2010, only three were fully operational – in Oporto's and Coimbra's historic districts, as well as in Fatima's Sanctuary – while at Lisbon's Bairro Alto district, installation was underway but never saw the light of day. In fact, by the end of 2012, only two of these remain in operation, considering on the one hand that there are no funds to continue investing in this device at Oporto (where it was the Commercial Association and not the police or the City Council which underwrote the costs of the cameras), and, on the other hand, the external financial assistance programme that since 2011 has put an end to all future investments. As this data clearly indicates, even though the promulgation of the law that allowed installation of surveillance cameras in public areas dates back to the beginning of 2005, the first time such a system was effectively authorized to operate was in 2007. If we were to make an analysis based merely on the quantitative data, this trend could easily find a probable cause, especially if we followed the obvious rationale of the end served by video surveillance, its relation to crime rates and feelings of insecurity among the population. We would have to conclude that the decrease in these indicators had logically led to a diminished interest by the authorities in using surveillance cameras throughout Portuguese cities.

There was in fact a growing disinterest in these projects of video surveillance, but the reason is not so much bound up with fighting criminality – which is indeed low – or the necessity of this system, but instead with the obstacles met by these requests in their final stages, namely going through the Data Protection Authority's final seal of approval. The implementation of video surveillance in public areas from 2007 to 2012 was in fact a troubled process, as much in terms of its aspirations as of the roles played by the different entities responsible for conducting and executing it. Measures deemed imperative by the Ministry of Internal Affairs were sometimes trivialized by police forces, apparently unwilling to admit that video

surveillance was actually useful, or in any case reluctant to follow advice from external organisms on the proper performance of their own assignments. In addition, albeit the almost unconditional support of the Ministry's representatives – who incessantly encouraged projects and approved them – the fact remained that these did not always conform to the law, insofar as they did not meet some of its requirements regarding legitimately established goals and purposes.

The progress and outcome of consecutive requests revealed yet another obvious fact: the position of the Portuguese Data Protection Authority, whose power of decision was legally binding and final, emerged as being on principle against the use of such devices, especially in open areas. As the process developed, each of these actors' positions *vis-à-vis* the use of public video surveillance (even if not always assumed as such officially) gradually became more evident. An analysis of the details for this period concerning video surveillance proposals and its implementation in Portugal also revealed the diversity of proponents and specific objectives: some originated in professional associations interested in protecting their businesses or areas of business; others were initiated by Councils which advanced spontaneously with proposals of their own, later seeking the cooperation of local police forces on whose official reports the proposals' designs were ultimately based (Frois 2011a, 2011b, 2013).

The political initiative to introduce surveillance cameras in open areas in Portugal mimics the standardization of similar practices within European countries, apparently despite without the same degree of success. It was thus motivated by the need to correspond to what we may call a European video surveillance model, and translated into a political response which sought to show that action was being taken to solve a very specific problem, namely the alleged feelings of insecurity expressed by Portuguese citizens. However, this foreign safety and security governmental strategy was being enforced in a country which, according to police estimates, had low levels of violent criminality, no risk of internal threats such as regional independence movements or any sort of ethnic problems or social instability, and finally where, despite this country's geo-political alignment (especially as part of NATO and involved with their foreign policies), risks of external attacks were never seriously considered.

Considering some discrepancies about the motives, main goals and even official positions regarding the use of CCTV in public areas in Portugal, and keeping in mind that the main argument for the use of this device is to act directly to relieve feelings of insecurity – by itself an ambiguous notion – we may ask ourselves: are we facing a case of pure political dispute between parties, government and institutions, using the *leitmotiv* of security as a pretext to maintain and somehow affirm their own power, in a struggle that is all but successful in terms of its initial and allegedly primary goal? This interrogation may be applied to other devices of the Portuguese state's surveillance apparatus (e.g. the establishment of a national DNA database for criminal and civil identification purposes), as we will discuss in the next section.

5.4.2 The national forensic DNA database

On 2005, in the same year that Portuguese law allowed the use of video surveillance in public spaces, the newly elected socialist government announced the intention to create a genetic database of the entire population for civil identification purposes, which could also be used in criminal investigation work. The plan to create a universal genetic database announced by the government was presented as an important (scientific) tool that would improve "the fight against crime and criminal justice more efficiently".[3] The announcement stated that the establishment of an "integrated criminal information system" was needed that would allow for links to be made between the various existing public databases containing information about citizens.

The political announcement of the plans to establish a universal forensic DNA database in Portugal also stated that the criminal police would not be the custodians of the genetic database. On various occasions during the two years that followed, representatives from the Ministry of Justice emphasized the idea that the police would not have direct access to genetic information for the purposes of criminal investigation, to ensure adequate protection for citizens with regard to possible abuses of the DNA database. This political concern seems to reflect the weight of the fear of returning to the past authoritarian regime based on police power and actions of surveillance. If this plan had been implemented, Portugal would have been the first country in the world to have a centralized DNA database of its entire population for civil and criminal identification purposes.

The government's intention to create a universal DNA database seems to have aroused little interest among the public, and the same could be applied to the implementation of CCTV in public areas described above. In addition, media coverage of the subject was mainly neutral and descriptive in tone, and limited to presenting regular updates on the draft bill, the parliamentary debate and the setting up of the database (Águas *et al.* 2009; Boavida 2005). Although this plan never passed into law, its political intent resonates with the long social history of the state collecting personal identification data with the citizens' acceptance that we have described in this chapter.

The idea of creating a universal database was transformed into one of the most restrictive laws in Europe in terms of the criteria for DNA profile inclusion and removal for criminal investigation purposes (Machado and Prainsack 2012; Machado and Silva 2010). Law 5/2008, which approved the creation of a DNA profile database, stipulated that the body responsible for its operations was the National Institute of Forensic Medicine (*Instituto Nacional de Medicina Legal*), which processes the DNA samples (Article 16 of Law 5/2008). The Institute is accountable to the Ministry of Justice (the custodian of the DNA database) and is responsible for forwarding results to the competent judicial authorities (Article 19 of Law 5/2008). The DNA profiles are inserted into the DNA database in case of convicted offenders receiving a sentence of three years or more, and if insertion is ordered by a judge and the profiles are deleted with the expungement of

the criminal record (maximum ten years after serving a prison sentence). All the activities developed by the NILM are formally supervised and controlled by an independent Supervisory Body (*Conselho de Fiscalização*) with powers of authority, nominated by the Portuguese Parliament. However, this Body never had the proper conditions to work in because their activities were never regulated by a specific law (*Lei Orgânica*).

There is not yet any official data regarding the number of samples and DNA profiles held by the NILM. In May 2012, the press announced that fewer than 600 profiles were included in the DNA database. Apparent causes for this modest growth were associated with the restrictive nature of the legislation and financial costs of constructing the DNA database. There is also the matter regarding the databases maintained by the *Polícia Judiciária* (the criminal investigation police) (Machado 2011). The Portuguese law did not mention the fate of the samples and profiles collected by the criminal investigation police until the DNA database was created. The Portuguese criminal investigation police have files that contain fingerprints collected from suspects and convicted individuals, as well as biological samples and DNA profiles, but this information has not yet been legalized. There are no official numbers about the size, type of data or any other details about police databases. Nevertheless, in January 2011 some Portuguese newspapers announced that the laboratory of the criminal investigation police held about 2000 DNA profiles collected from crime scenes, suspects and convicted individuals.

More successful than the attempt to expand video surveillance throughout the country and to develop the DNA database for crime-fighting purposes was the fact that in 2008, the so-called citizen's card replaced the traditional identity cards. Carrying a citizen's card, which was now available in smart card format, remained compulsory. In addition to replacing the previous identity card, it also took on the functions of the previous taxpayer card, social security card, electoral registration card and National Health Service card. The citizen's card also bears a photograph, fingerprints taken from the left and right index finger, address, and a digital signature.

Portuguese law allows fingerprints to be taken from all Portuguese citizens for the purpose of issuing a citizen's card or passport, and for it to be cross-referenced with fingerprints found at crime scenes. Equally, criminal police investigating bodies can take fingerprints, photographs or other items of a "similar nature" for use in identifying a suspect. However, the law does not specify what is meant by evidence of a "similar nature", and it is therefore not clear whether the collection of samples for DNA profiling can be included in this category (Moniz 2009: 3).

Another important identification technique for criminal investigation is the databases for criminal identification held by the General Board of Administration of Justice (*Direcção-Geral da Administração da Justiça*) which contain criminal registers (*Registo Criminal*), with information on all criminal convictions of Portuguese citizens, and fingerprints of convicted individuals. These databases are governed by Law 57/98 of 18 August 1998, which defines the general principles regarding the organization and functioning of criminal

identification. In order to apply for particular jobs, for example, as a state employee, it is obligatory to submit a criminal register clearance certificate.

5.5 Conclusion

The discourse that bridges intentions and actions becomes all the more effective as it is repeated in the public arena, a connection that in this case is established between politicians and the population through the media, additionally becoming more entrenched in its convictions as it is met with opposition. One would therefore be wrong to restrict the idea of developing surveillance apparatus (for instance, installing video surveillance in major urban areas or collecting genetic information from citizens) to a matter of crime-fighting policies, ignoring the fact that we are dealing with policy making in the broader sense, and that we have the problem of its meta-discourse. Roughly speaking, this is how it operates. A given initiative is conceived with a particular purpose, and as soon as it is announced begins to produce effects, even when it is not carried through. This does not amount to deception or dissimulation, but is simply a case of meta-discourse, of pronouncing intentions and goals that do not always have to be realized.

Notwithstanding the diversity of motivations driving the different entities involved in the Portuguese case, it is crucial not to lose sight of the legal framework that enabled it – first and foremost the general law which regulates public video surveillance and the DNA database – and the governmental plans responsible for conferring to it a national scope. It has already been stated that the appearance of video surveillance in public spaces in Portugal, as well the plans to establish a universal DNA database for criminal and civil identification, emerged within the context of a political design bent on introducing advanced technology in all areas of state activity. It must therefore be understood as an instrument of modernization (one among many) intended to raise this country to levels of development that seek to emulate the models of more advanced European countries.

This aspect of permanent comparison and imitation, mainly through the belief that technology will automatically improve efficiency in public security and in crime fighting, follows the kind of simple reasoning that may be summed up as follows. If countries such as France, the United Kingdom, Italy or the Netherlands use these monitoring devices to aid crime fighting, why shouldn't the same technologies be used in Portugal? This task of emptying phenomena of their context carries with it other consequences, and the greater the number of actors involved, the greater the chance there is of misunderstanding and miscommunication throughout the process. The result is that as each institution follows its own political, cultural and economic agendas, the diagnosis – originally intended to make sense of previously scattered data – becomes itself incoherent and unbalanced.

Besides the political enthusiasm regarding the potential benefits to increase the public safety and success in crime fighting and prevention that conflates with

a quest for modernization, our data also indicate that surveillance identification systems have been implemented in Portugal without a public debate that actually involves the common citizen. The debate around the implementation or expansion of the surveillance mechanism has been done in a closed circuit, involving mostly experts in the areas of law, bioethics, politics and crime investigation (Machado and Silva 2010). In addition, national and international polls indicate that Portuguese citizens see state institutions and the justice system as being vulnerable to pressure from powerful people and exposed to corruption, and thus holding little guarantee of confidentiality and security of information found by the criminal investigation agencies.

Moreover, there is the coexistence of official identification systems with more informal databases held by the police. This scenario suggests that the uses of surveillance mechanism are never neutral, and are deeply conditioned by cultural and historical contexts of the management of information. As we can learn from reading the works of Susana Durão (2008, 2010) on the history and evolution of the Public Security Police in Portugal, in the years between the end of the 1980s and the second half of the 1990s, there was a major effort by the state to change the previous perception that related police forces with excessive use of violence, and generally viewed its agents as unprofessional and undertrained. Throughout this decade there was a huge investment in providing Portuguese police forces with better training, namely members of the Public Security Police and the National Republican Guard. Due to their greater contact with the general population, these forces were also more strongly represented in the popular imagination with the authoritarianism of the previous regime, and thus a symbol of everything the democratic revolution had fought against.

In addition, there is the question of the proportionality between the possible benefits of using technological devices for crime fighting and the prevention of criminality and its economic costs in a country facing serious economical problems and with a relatively low level of serious crime rates. Nevertheless, the conservative ideologies claiming more public security may well increase in breadth and scope over the next few years. The ideology of neutrality and truth of science and technology may be used to garner the confidence of citizens (Jasanoff 2004). In these current turbulent and ambiguous times we need to give voice to civic accountability that fosters participatory democracy to best address these complexities.

Notes

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2 Parts of this section were developed in Frois (2011a, 2013).
3 Programa do XVII Governo Constitucional. Presidência do Conselho de Ministros (Programme of the XVII Constitutional Government. Presidency of the Council of Ministries). Available at http://www.portugal.gov.pt/pt/o-governo/arquivo-historico/governos-constitucionais/cg17/programa-do-governo/programa-do-xvii-governo-constitucional.aspx.

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6 Controversial legacies in post-Fascist Italy

Chiara Fonio and Stefano Agnoletto

6.1 Introduction

The object of this chapter is to investigate continuities and discontinuities in post-Fascist Italy immediately after the Second World War, during the 1950s and up until the 1970s. In particular, we propose focusing on the following three topics: the legal frameworks, the public administration and the socio-cultural domain. By focusing on these aspects, our aim is to explore the bidirectional relations between concrete aspects of the working of the state (the public administration) and the ideological superstructure which led to continuities and discontinuities (the legal frameworks and the cultural legacies). In our opinion, it is also through the investigation of these relations that it is possible to highlight some controversial aspects that characterize the collective awareness of Fascist legacies in democratic Italy. If, on the one hand, the echo of the Fascist dictatorship is temporally and culturally distant from the present, the ruins of the past have not been completely dismantled. This is apparent, for instance, when looking at the legal framework and at reforms that were implemented decades after the fall of the regime (1945). Despite fascism lasting for a relatively short time compared to other Southern European dictatorships such as Portugal, Spain and Greece, the continuity of men, institutions, laws, approaches to welfare and policing as well as cultural legacies cannot be ignored.

In order to pursue our objectives, we develop the three above-mentioned topics by applying them to the following issues: the failed defascistization of the Italian state apparatus and its role as a tool of social control (sections 6.2 and 6.3), and state interventions in the private realm, in particular the redefinition of the state–law–individual relations (Section 6.4.).

The aims of sections 6.2 and 6.3 are to understand the combination of legal frameworks, cultural legacies and the public administration traditions and cultures that, together with the political goals of social control and pacification, can explain the failure of the defascistization process. In order to pursue such a purpose, we propose an original multidisciplinary approach that considers the achievements of various disciplines and fields, such as the history of law, administrative history, political history, institutional history and cultural history. The multidisciplinary approach proposed in these sections reflects the authors'

interest in the debate, widely developed in the literature, on the alleged 'continuity of the state' in the history of twentieth-century Italy (Sandulli 2009; Cassese 2010; Ferrara 2011). The focus is on the survival of some of the basic characteristics of the Italian state, despite the political regime changes experienced with the passage from a liberal government to a Fascist dictatorship and then to a democratic republic. From this perspective, this chapter looks at the failure of the process of the defascistization of the state apparatus by considering it not merely as a consequence of the alleged autonomy of the public administration in the political context or as the result of links between the new democratic leadership and the old one. We apply an interpretive pattern that identifies, in the support of the Fascist inheritance, an attempt of the post-war ruling class to defend the idea that only a national state was capable of facing up to the Communist/Socialist challenge.

Within this framework, the defense of many Fascist legacies was justified by the necessity of the post-war Christian Democratic leadership to ensure the "continuity of the State" (Pavone 1974, 1995; Pelini 2000). Despite the change in regime, the purpose was to maintain control over society. This approach mainly explains the failure of the anti-Fascist purges among public employees (Flores 1977; Roy Palmer 1991; Woller 1997; Canosa 1999) and, likewise, the success of the anti-partisan normalization of the state apparatus (Quazza 1976; Melis 1996) (see Section 6.2). From the same perspective, the failure to reform the public employees' status and the permanence of a hierarchical culture in state administration (Calandra 1975; Capano 1990; Melis 2004), as well as the persistence of clientelistic approaches in the management of public administration (Altan 2000), were coherent with the idea that authoritarian management of civil servants and the bureaucracy was not *typical* of fascism as such, but it was a characteristic which featured in most modern states (see Section 6.3).

In the third part of this contribution we look at new attempts to discern the population through systematic surveillance and data gathering of what had previously been considered natural or private aspects, such as sexuality, reproduction and maternity. The aim of Section 6.4 is to show how the Fascist regime governed the state through a specific emphasis on individual bodies, in particular through the rise of a new penal rationality and of a new social-political medicine focused on prevention and through new ways for the management of the population. The analysis thus turns to the ways in which the private domain was ruled and to the bio-political interventions of the regime which shed light on the history of modern surveillance practices in the Italian context. In so doing, we draw attention to a field of study that, despite it not being fully developed, offers relevant socio-cultural insights which are important in being able to grasp some subsequent developments pertaining to social control and state interventions.

6.2 The failure of the defascistization process

Between 1944 and 1948 a process of defascistization was carried out in Italy to purge the state apparatus which had supported the Fascist regime for the

previous 20 years (Palombaro 2003). This process was based on a complex legislative framework. To begin with, on December 28, 1943 a Royal decree was issued, which called for the public sector to be purged of anyone who had been an active member of the *Partito Nazionale Fascista* [National Fascist Party] (PNF), who had participated in squadrist actions and/or the March on Rome, who had been a high-level official in the regime, or who had benefited from a privileged position within the Fascist State in order to undermine personal freedom.[1] On January 6, 1944 a new Royal decree imposed the reintegration of those people dismissed for political reasons during the Fascist regime.[2] The *Alto Commissariato per la punizione dei delitti e degli illeciti del fascismo* [High Commissar for the Punishment of Fascist Crimes and Offenses] was created on April 23, 1944.[3] It was followed on July 27, 1944 by a new decree which described in detail the intricate workings of the High Commissar.[4] Moreover, it further outlined the need for a purge of the public administration, the expropriation of ill-gotten "gains," and the liquidation of Fascist property.

In the following months, with the definitive defeat of Fascism and the end of the northern Republic of Salò (April 25, 1945), the legal framework which would define the purge's process was submerged in an enormous number of new decrees and explanatory circulars which created a very cumbersome and ambiguous system (Melis 1996: 426–427). Moreover, the decree of November 9, 1945[5] eliminated the *Commissione Centrale di Epurazione* [Central Board of Purging], which was replaced by a special section of the *Consiglio di Stato* [Council of State] as the superior Court of Appeals (Pavone 1974), so that the public administration could take control of the process of purging in regard to itself.

The "machine" of the purge based on this complex legal framework was very impressive. To give an idea, by January 1946 the *Commissioni di primo grado* [Commission of First Instance] had already examined 218,159 employees who worked in the ministries, out of a total of 385,465. It appears that the anti-Fascist purge had deeply involved the state apparatus, but the reality was different. In fact, to have a real picture of the situation it is useful to look at the following data: by the same date the *Commissioni di primo grado* had completed just 17,162 files, with 4266 appeals and only 738 decisions by the Central Commission. This indicates that the machine was working very slowly. Moreover, the majority of cases ended in acquittal (Melis 1996: 429).

A further decisive step was taken, which reduced the impact of the purge's process: the amnesty of June 22, 1946.[6] It was issued by Palmiro Togliatti, the leader of the *Partito Comunista Italiano* (PCI) [Italian Comunist Party] and, at the time, Minister for Justice in the first government of anti-Fascist unity led by the Christian Democrat, Alcide De Gasperi.

However, the defascistization came virtually to an end with the defeat of the Socialist–Communist coalition (*Fronte Popolare*) and the overwhelming victory of the Christian Democrats in the general election of April 1948. On May 14, 1949 Prime Minister De Gasperi issued a new law[7] which, combined with other measures,[8] stopped the purge, extinguished many ongoing proceedings (Melis 1996) and allowed the release from prison of almost all of those Fascists who

had not until that time benefited from Togliatti's amnesty (Palombaro 2003). The final picture of the anti-Fascist purge is given by the following data. Of all the proceedings against members of the state apparatus, almost all sentences of expulsion were overturned, as demonstrated by the work of the special section of the Council of State, which until 1950 upheld 4665 appeals, abolished 5525 positions, and rejected only 724 requests by purged members of the public sector (Consiglio di Stato 1952). To summarize: more than 90 percent of the sentences against supporters of the old regime were overturned (Palombaro 2003).

Galante Garrone defined the anti-Fascist purge as "una burla" (a joke) (Galante Garrone 1996), while Massimo Severo Giannini described it as a "macchina ridicola" (a ridiculous machine) (Giannini 1987). The present purpose is to understand the causes of such a failure. It was, in short, the result of a complex combination of legal, cultural and political factors.

It is first apparent that the inefficiencies which characterized the process were the result of an overcomplicated and contradictory legal framework, one which led to an implementation of the laws that was both partial and random (Melis 1996). Moreover, there were ambiguities in the legislation which mixed the criminal law with the administrative – a function of a dual purpose to punish Fascist crimes and to expel the Fascist supporters from the public administration (Pelini 2000). Despite the political will at the beginning to support the anti-Fascist purge, a confused and ambiguous legal framework was instituted which gave judges wide, discretionary powers in the interpretation of the laws. The result was that a judiciary that had not been previously purged managed the entire process. It meant that judges and suspects often shared the same Fascist past (Giannetto 2003; Pesenti 1972).

This situation had paradoxical consequences. For instance, Claudio Pavone remembers the case of a commandant of a Fascist brigade who was not condemned for abuses against a woman (a young partisan), although he had her bound, blindfolded and raped by all his soldiers. The purge commission decided it was not abuse but only an act against decency (Pavone 1974: 138–139).

Another example of the failure of the purge was the 1946 amnesty. It had been considered an act of clemency, but it became an indifferent amnesty (Pelini 2000). In fact, although Togliatti's decree intended the reduction and cancellation of the sanctions only for those with sentences of up to five years, the result was that hundreds of condemned Fascists were freed and pardoned by consenting commissions (Dominioni; Canosa and Federico 1974).

Furthermore, the attacks against the process of defascistization by the judiciary found important support in the state bureaucracy. In fact, through its corporative identity, the state on many occasions expressed a sort of "passive resistance" in opposition to the purge of the public sector (Pelini 2000). The tardiness which characterized the procedures of defascistization was, above all, a consequence of such an attitude (Melis and Varni 2002).

The combination of an inefficient legal framework, a non-defascistized judiciary and a corporatist bureaucracy was well established in the political culture of post-war Italy. In the climate of the Cold War, there was a far-reaching

economic, social and political alliance which had to face, as its first priority, the risk of a Socialist-Communist victory. Both the economic ruling class and the "moderate" political parties – as well as the Allies – approached the anti-Fascist purge as a mechanism that should safeguard the system, not change the socio-economic structures of Italy (Giannetto 2003). With this perspective in mind, we can interpret the need of *pacificazione* (pacification) in terms of the need of "the recovery of the country's life," "which was invoked by the high commissioner for the purge Riccardo Peretti Griva already in 1945" (quoted in Canosa 1999: 325). In general, the culture of pacification and normalization was solicited in an attempt to build a "pacified memory" in which the anti-Fascist purge should not be a risk (Pelini 2000). Paradoxically, the Communist leader Palmiro Togliatti also supported an idea of pacification in society with his 1946 amnesty. Although it was a strategy to preserve the unity of the fragile anti-Fascist coalition, the fact that it was proposed by a leading anti-Fascist is a telling indication of how quickly the memory of Italy's Fascist past was to be suppressed (Bocca 1991; Ventresca 2006).

Furthermore, there is evidence of the rapidity that characterized the process of the "return to the normality" and the "need for pacification." It is present in the anti-partisans' normalization that took place immediately after the end of the war. We refer to the rapid dismantling of the structures of government created by the partisans, the so-called *Comitati di Liberazione Nazionale* (CLN) [Committees for National Liberation]. They were replaced without delay by the old, and non-defascistized, state organs. In fact, the dualism between powers – due to their existence at both national and local levels – of structures created by the anti-Fascist Resistance had already been resolved on June 2, 1945. On that day the leaders of anti-Fascist parties declared the end of the activities of the CLN (Quazza 1976). As a consequence, all local public administrators and *prefetti* (the local representatives of the central government) nominated by partisan committees forfeited their legitimacy (Melis 1996). The process was concluded by the end of 1945 when the Democratic Christian president of the government, Alcide de Gasperi, decided on the substitution of all *prefetti* appointed by the CLN with those who came from the state bureaucracy. A practical result was that many *prefetti* nominated during fascism played a strategic role in the management of public security and the repression during the 1950s and the 1960s (Piretti 1979).

This was the definitive defeat of the idea – maintained in particular by anti-Fascist parties such as the *Partito d'Azione* – that the CLN could represent the foundation of a new model of the state. The CLN's alternative to the traditional centralistic pattern which had characterized both the Liberal and the Fascist period was no longer available (Pelini 2000). The dream of "Tutto il potere ai CLN!" (All the power to the CLN!) ended and the "continuity of the State" was assured.

6.3 The unreformed bureaucracy and the "continuity of the state"

The failure of the defascistization, described in Section 6.2, is understandable on the basis of the combination of legal frameworks, cultural legacies, and the public administration's traditions and cultures which characterized post-war Italy. In fact, the failure of defascistization impacted on a state apparatus not only deeply shaped by fascism but also characterized by long-term corporatism and self-reproduction.

From this perspective, the missed reforms of the state employees' status are a paradigmatic example of the continuity not only in the legal framework, but also in the cultural background. In fact, after the war the condition of the employees of the state apparatus was still regulated by the so-called *Riforma De Stefani* [De Stefani's Reforms] of 1924.[9] In particular, these sets of Fascist laws had introduced a special jurisdiction for state employees, who had found themselves in a peculiar legal condition separate from that of private sector workers. This special jurisdiction was no longer regulated by a labor contract, but was characterized by the supremacy of the state which imposed rules that public employees should follow.

Moreover, the Fascist reforms had empowered the *Consiglio di Stato* as the only institution with jurisdiction in matters regarding public sector employees (Rusciano 1978). By introducing this special jurisdiction for all issues related to the public sector, the Fascist regime eliminated any element of influence from society. The picture was completed by the implementation of a new hierarchic system based on the military pattern. It implied a more rigid scheme for careers with the introduction of three groups of employees (A, B and C) and the creation of 13 hierarchical levels. In general, De Stefani's reforms are considered a sort of "militarization" of the state apparatus (Melis and Varni 2002: 13) which aimed to tie the destiny of the employees to the benevolence of the political power (Carinci and D'Antona 2000). This was how fascism ensured the loyalty of the bureaucracy.

The point to note is that the end of the Fascist regime did not represent a caesura in the history of public sector employment in Italy, since De Stefani's laws were still the legal reference for many years. The democratic Constitution which was introduced in 1948 had little impact. In particular, the existence of a "special jurisdiction" for public administration was protected by Article 98. Thus, the most important characteristics of the public sector remained: the non-contractual nature of the employment relationship, the dominion of unilateral legal sources imposed over the employees, and a hierarchic system of the job positions. In this framework, Rusciano has highlighted the survival of a pre-war approach in the acts of the *Consiglio di Stato* which, on the basis of the civil and administrative laws, as well as of the new Constitution, was able to maintain the exclusion of state employees from the norms, such as the freedom of unionization and the right to go on strike (Rusciano 1978: 156).

The lack of a caesura in the state employees' status after the fall of the Fascist regime was due to both ideological and cultural reasons, as well as political

considerations. First of all, during the debate at the Constitutional Assembly (1946–1948) there emerged the hegemony of ideologies which theorized the "neutrality of the bureaucracy" (Pavone 1974: 168). They maintained that it was not considered politically significant to have a discussion on bureaucracy and a dispute over special jurisdiction. These approaches were functional to the continuity not only of the Fascist State apparatus protected by the failure of the defascistization process, but also of mechanisms of social control which implied the loyalty of the state bureaucracy (Ferrara 2011) and the use of the public sector as a tool of political exchange (Melis 1996: 420). It is no coincidence that in the years immediately following the war – notwithstanding the economic difficulties of the reconstruction of the country – the state apparatus kept growing significantly (Melis 1996). Thousands of new employees entered the hierarchical structure and were subject to a special status, which implied a limitation of their rights as workers but gave them certain guarantees for the continuity of their jobs.

This mass of new employees was the direct consequence of the working of a powerful, although informal, mechanism of social control, inherited from fascism, which was a long-term feature of Italian society: the traditional *clientelism* (Ascoli 2002; Cassese 1974: 71). In fact, a job in the public sector could often be obtained within the logic of a *politica del favore* [policy of favor] which implied that personalized clientelism could replace the role usually played by collective political actions (Castronovo 1976). In this context, the management of a civil servant's career, as well as the hope of a job for a relative or a friend, was an impressive tool of social control in the hands of both the political and bureaucratic hierarchies which monitored the state employees' behavior.[10]

The informal mechanisms of nepotism and patronage which governed the state apparatus were also the tools that transformed the Italian bureaucracy itself into an impressive instrument of social control over the entire society. The relationships between the state and the citizens were often influenced by the networks of clientelism which surrounded the activity of the public sector. As Paul Ginsburg has highlighted, post-war Italian bureaucracy does not behave towards the citizen on the basis of the impartial execution of its task but rather on the basis of its *discretionary* power combined with the inefficiencies of a system characterized by gigantism (Ginsborg 2003). Italians were submitted to a paradoxical combination of informal clientelism and legal formalism, supported by a minute regulation of each administrative activity through the promulgation of hundreds of laws, statutes, circulars and internal directives, which created an incomprehensible labyrinth for common citizens. The expedition of personal papers through the administrative machinery, as well as of secure jobs or personal favors, was often secured by patrons of the state apparatus who helped their clients in return for political fidelity.

This was the paradox of an inefficient state apparatus which acted as a formidably efficient engine of social control in the everyday life of Italians. Such a system was not based on mechanisms of direct repression but on the largesse of favors or donations by a *benevolent* bureaucracy, but only to those citizens

who were inside the clientelistic networks (Gribaudi 1980; Altan 2000). As a consequence, every citizen had to show his or her fidelity to the political and bureaucratic givers of favors.

There were some attempts to innovate in this context. For example, in 1950 the *Ufficio per la riforma amministrativa* [Office for Administrative Reform] was created by the government (Presidenza del Consiglio dei Ministri 1953). This office, especially during the period between 1950 and 1955 when it was led by Roberto Lucifredi, was able to elaborate interesting proposals of reform of the state apparatus (Capano 1990). In particular, it proposed two new approaches that could change the entire system (Melis and Varni 1997: 16). The first concerned the introduction of innovations in the methodologies and tools of administrative jobs (e.g. in the fields of mechanization, auditing, employees' training, etc.). The second was even more revolutionary and implied the definitive overturning of the De Stefani scheme. In fact the *Ufficio per la riforma amministrativa* proposed to shift from the military organization of the public sector to a functional one. It would have meant overthrowing the hierarchic philosophy in favor of a structure based on the competences and roles of each office. However, despite these proposals, the new Regulation of 1957[11] did not change the basic nature of the system. In fact, the 1957 *Testo Unico* confirmed the characteristics of rigidity and military hierarchy of the bureaucratic organization (Melis and Varni 1997: 16).

It was only at the end of the 1960s that the nature of state employees' status inherited from fascism was finally overcome.[12] For the first time the possibility was introduced of regulating the status and wages of the state's employees in accordance with agreements between trade unions and government, instead of by unilateral legal acts (D'Orta 1990). These changes were mainly the consequence of the activism of the union movement, more than the result of a process of reform coming from inside the state bureaucracy. Moreover, these developments represented an important evolution, but they were not the definitive turning point. Italian bureaucracy remained a special jurisdiction until 1993,[13] when there was choice of privatization of the status of the state's employees (Melis and Varni 1997: 17). The situation fundamentally changed, and in the 1990s, in the context of triumphant neo-liberalism, the need for control of the state bureaucracy could be delegated to the market.

The survival of a bureaucratic pattern inherited from fascism, unaltered for decades, highlights how deeply the dictatorship affected the Italian State. It was a kind of paradox: the "continuity of the State" after the failure of both fascism and the monarchy seemed to be ensured only by the permanence of a hierarchical culture in the public sector, and authoritarian management of the civil servants and bureaucracy (Calandra 1975; Capano 1990; Melis 2004). It meant that for the post-war ruling class, De Stefani's regulations were not *typical* of fascism, but it was a characteristic that featured in each modern state, and the only one available. From this perspective, the support for the Fascist inheritance was an attempt to defend the only idea of a national state that seemed to be available to face the Communist/Socialist challenge. Italian history did not provide

other alternatives. It was the only tool that could meet the needs of political control of bureaucracy, and social control of the entire society.

6.4 Governing the state, governing the body

While sections 6.2 and 6.3 show the deep penetration of the dictatorship in the state apparatus and the lack of a socio-political turning point in the post-war decades, we now turn to analyze how fascism reshaped the relationships between the state and individuals and to what extent this new way of governance survived beyond the end of the regime. In particular, we are concerned here with both macro and micro and, perhaps, more subtle biopolitical interventions. In fact, during the regime, the boundaries between the social and the individual body seemed to blur due to an organic vision of society (Horn 1994) drawing on a holistic approach which aimed at developing the *social* through an emphasis on the *individual*. For the first time the latter became an issue of concern whose gender role, sexuality, reproduction and health were at the core of specific state surveillance practices. The body turned into a target of interventions which first problematized and then ruled the private domain. In this context, we argue that the history of modern surveillance practices in Italy is rooted in new paradigms of state–individual relations. This new paradigm took many forms and it is analyzed here through an emphasis on crossing boundaries between the social and the individual.

At the structural level, there are at least three aspects that epitomized the will of the dictatorship to govern the *body* in order to govern the *state*: (1) the legal framework and the rise of a new penal rationality (Horn 1994); (2) the emergence of social-political medicine and the impact on women; (3) the Welfare State and the management of the population. These three features are considered to be mutually interrelated to the point where it is hard to claim whether any particular one paved the way for the others. Yet, the legal framework and the penal rationality legitimized specific socio-cultural approaches.

As highlighted by Horn, in fact, Alfredo Rocco, the Minister of Justice from 1926 to 1935, who conceived and developed the Fascist legal system, codified a set of relationships between the individual, the state and society. He promoted an organic vision of society (Rocco 1927) where the individual becomes a eufunctional means – like a cell of the physical body – of the social body. This is apparent, for instance, when looking, according to Horn, at the new penal rationality that emerges from the Rocco penal code of 1930 which is imbued by either a Lombrosian criminological approach or by a clear aim at reshaping the abovementioned state–individual relations through "a new understanding of the law–citizen–state relationship" (Skinner 2011). The new positivist school of criminology, founded by Cesare Lombroso, drew a considerable amount of attention to the body of the criminal and to preventive measures (Lombroso-Ferrero 1972). In *Criminal Man*, Lombroso wrote that it was necessary to apply the scientific method to the identification of criminals and surveillance as a key remedy to prevent certain crimes (Lombroso 2006). The subsequent reforms of

the Italian penal code were consistent with positivist criminology, as the criminal and not the crime was the focus. Moreover, "the code abandoned, to a significant extent, retributive penalties in favor of preventive measures" (Horn 1994: position 393).[14] While the reform of the penal code, which began in 1919, never saw the light of day because the Fascists came to power in 1922, the legacy of Lombroso was partly picked up by Alfredo Rocco and was reproduced in the legal tools of the regime. In the new code, proactive security measures and a shift towards the logic of prevention were implemented through, for instance, the creation of special asylums for specific types of deviants (i.e. drug addicts) and special vigilance of police forces in order to foster social hygiene against crime. As we will see in the following pages, the call for prevention, which entailed an increasing use of surveillance, was not limited to the criminological field.

In addition, the Rocco penal code encapsulated the efforts of the regime to develop an authoritarian, moral state through a set of interventions which, on the one hand, sanctioned the primacy of the state over the individual and, on the other, focused on the private domain and thus legitimized a new area of surveillance. The primacy of the state, as Skinner points out, emerges from the structure of the code: while previous criminal law placed crimes against life and physical integrity first, the Rocco code began with crimes against the state (Skinner 2011: 13). Crime against the person comes after the state, the public and legal administration, religious belief, public order, economy and industry, morality, racial health and the family (ibid.).

The protection of the family, of the "stock" and the governing of reproduction were priorities of the Fascist dictatorship and were thus included in the penal code. For instance, the title "Crimes against the family" (Articles 556–574) punished adultery with imprisonment and clearly provides the family with a socio-moral connotation. The family became both a social technology and an instrument of government, and constituted a locus of duties, state interventions and the target of surveillance. The new code made contraception and abortion crimes "against the integrity of the stock," reaffirming the approach of the Public Security Laws (*Testo unico delle leggi di pubblica sicurezza*, 1927) which had previously forbidden "the sale, distribution and publication of information on the prevention of pregnancy" (Horn: position 976).

Abortion was also prohibited and criminalized in pre-Fascist legislation, but what was new in the 1930s was that an ad hoc category was created and that the individual body had to surrender to the imperatives of the social body. In this context, not only was abortion a crime against the social body, but also voluntary sterilization, instigation to practice contraception and willful transmission of venereal disease were punishable. With the Public Health Laws (1934, *Testo unico delle leggi sanitarie*) physicians had to report the causes of miscarriages and abortions of which they became aware. The criminalization of abortion was in line with Mussolini's pronatalist measures that included, *inter alia*, a punitive tax on male celibacy, the criminalization of homosexual acts and preference criteria for married men as far as government careers were concerned (De Grazia 1992: 43). In doing so, the regime attempted to govern and police sexuality. In

this context, medical surveillance was a means for ensuring compliance and conformity. For example, special "passports" were conceived both for prostitutes who had to carry a document with records of their gynecological examinations (De Grazia 1992: 44) and for ordinary citizens with records of their clinical history (Horn 1994).

After the fall of the dictatorship, the Rocco code was retained and then revised over the years. Nevertheless, as emphasized by Skinner, one cannot deny that the authoritarian origins of the current Italian penal code cast a shadow on it and epitomizes a legacy that can now be disturbing (Skinner 2011). Beyond the Rocco code, fascism also introduced the new Code of Penal Procedure (1930), a new Civil Code and the Code of Civil Procedure (1942). It is worth noting that only the Penal Procedure Code has been replaced by a new code, while the others have been adopted and amended but retained (Skinner 2011). Some revisions, such as those pertaining to the above-mentioned crimes against the family, took over 30 years to be completed (ibid.). Moreover, in the absence of a general replacement of authoritarian laws, it is, in certain cases, particularly controversial,[15] as in the case of Article 53 on the legitimate use of weapons by public officials. Under Article 53, state agents have wider powers than ordinary citizens as far as self-defense is concerned "to repel an act of violence or overcome some other forms of resistance" (Skinner 2011: 19), but it represents "more of an inherent presumption than a form of defense that would need to be relied on" (Skinner 2011: 20), and there is still no reference to proportionality in relation to the force used. Despite that, this article has been interpreted in a restrictive way, and the roots of fascism have not been completely eradicated.

The new political interventionism in the individual body, mainly women's bodies, enhanced through this new penal rationality, paved the way for a set of domestic politics which, as Whitaker argues, "changed the nature of State surveillance over individual bodies" (2000: 8). The identification of the individual with the social and collective body (Whitaker 2000: 101) is epitomized by the emergence of Fascist biological politics, in particular by the rise of socio-political medicine. The latter comprised a complex set of interventions in public health based on prevention, specific institutions, surveillance measures, the politicization of maternity and an overall ideological use of gender roles (De Grazia 1992; Graziosi 1995; Whitaker 2000). This web of practices, measures and institutions has, at its core, two main features: the logic of prevention that, as anticipated, migrated from criminology to public health, and the impulse to control every aspect of citizens' lives in order to nourish a culture of consent (De Grazia 1992).

As Whitaker puts it, of all the institutions, the ONMI (*Opera Nazionale per la Maternità e l'Infanzia*), an agency for maternity and infancy, was "hailed as one of the most active and most indispensable organs contributing to the healthy, blooming life of the great organism" (Whitaker 2000: 101). Founded in 1925, the ONMI persisted until 1975 and thus represents one of the most enduring of the Fascist institutions. However, we are not concerned here with the developments and changes of the ONMI, but rather with the new politics of prevention and surveillance conveyed through it. The ONMI, created to curb the high rate

of infant mortality, dealt with a wider range of activities whose main goals were assisting, protecting and monitoring mothers-to-be, mothers and infants. In particular, this institution was a "field of State medical control" (Whitaker 2000: 130) as not only did the ONMI's offices orient women and children towards hygienic norms, but they also tracked and had to report deformities or lesions in newborns, sexually transmitted diseases, spontaneous or procured abortions and anything "unusual" that midwives or physicians noted in a pregnancy (ibid.: 131). Hence, maternity was politicized, rationalized and increasingly medicalized, with the consequence that women were held responsible for guaranteeing a healthy pregnancy and were seen as merely intermediaries between the children and the state (Whitaker 2000: 132). They had, in fact, to increase the number of the healthy population and had, thus, to comply with strict rules, such as specific breastfeeding schedules. Reproduction, maternity and breastfeeding became the domain of the state, and gender roles crystalized around ideas of maternity as the ultimate goal and the real vocation of women. Drawing on Foucault (1961), Graziosi contends that the formation of a new submissive female identity was normalized during the regime through laws, public discourses and social politics that confined women to the home by expelling them from high-ranking employment positions (Graziosi 1995). The penetration of the state into domestic matters also led to the increasing growth of medical surveillance and to an unparalleled intensification of control of the individual body which relied on physicians, nurses and midwives, the latter being key figures, since they had to ensure both women's compliance to regimented breastfeeding and report all other matters about them to the physician.

As specified above, the ONMI continued until the mid-1970s, but its role and nature varied according to the deep political, social and economical transformations that Italy underwent in the 1950s and 1960s (Minesso 2007). Whitaker (2000) argues that surveillance and control of women's bodies, along with the imposition of, for instance, regimented breastfeeding, had long-term effects and affected socio-cultural concepts about the care of the body and the gender role of women. While the cultural legacy of fascism pertaining to women's reproductive rights remained long after (Albanese 2003), it is challenging to gauge whether the penetration of the state into the private domains after the fall of the regime was shaped by surveillance practices and approaches forged under the dictatorship, or rather rested on multi-faceted socio-political and cultural aspects, such as the influence of the Catholic Church and Catholic political parties throughout the 1950s and 1960s. Therefore, a statement such as "even such private matters as sexuality and birth control continue to be affected by fascist-era ideas and legislation" (Whitaker 2000: 238) should be corroborated by empirical findings.

Yet, as stated above, the will to know and manage the population has its roots in the Fascist welfare apparatus (Fonio and Agnoletto 2013) and comprised an abundance of parastatal agencies that, among other activities, gather data on the population. Perhaps one of the best examples is ISTAT (Italy's Central Institute of Statistics), created in 1926, which still exists today. Mussolini foresaw the importance of the agency, claiming that it was "an instrument for the action of

Government, in the present and in the future" (1926). A relevant tool for the action of government was the census of the population that, from 1930, was conducted every five years rather than every ten years. This urgency for numbers and a more general determination to "watch over" and know the population statistically, emerged in the proliferation of research and journals and conferences, that, as Horn argues, "testified to the stabilization of a whole field of knowledge and power" (1994: position 683). It is also worth noting that the thirst for reliable statistics cannot be solely framed along lines of social control and surveillance, but rather has to be understood in the wider sense of population politics that were not peculiarly Italian (Quine 1995). Moreover, pronatalist Fascist politics lay behind the production of numbers and statistics that indeed shaped the ways in which Italian citizens were understood by the public authorities (Muehlebach 2012). Data gathering was also carried out through many other institutions, such as the INFPS (Istituto di Previdenza Sociale – the National Institute for Social Insurance) which was one of the foundations of the Italian Welfare State. Surveillance on the population was consistent with the scientific management of the population that significantly expanded the "gaze" of the regime.

We argue that these three features – namely the rise of a new penal rationality and the legal framework, the emergence of social medicine, and a new approach to the management of the population – are key elements in the history of modern and contemporary surveillance practices in Italy. Although we do not propose, here or elsewhere (Fonio and Agnoletto 2013), reductive path-dependency explanations, we contend that a focus on the locus of surveillance (the body) during the Fascist regime is telling of subtle bio-politics whose legacies are yet to be fully understood.

6.5 Concluding remarks

In this chapter we have investigated the patterns of continuity and discontinuity in post-Fascist Italy by focusing on key controversial legacies. The legal framework, the public administration and the socio-cultural domain shed light on the tools of social control that were at the same time tangible (i.e. the penal code, the state employees' legal status, the 1946 amnesty and the Welfare State) and less apparent (i.e. widespread clientelism in public administration and the socio-cultural aspects of the care of the body) but nonetheless significant. These features represent the extent to which the Fascist pattern of state interventions stretched well beyond the end of a relatively short period of time, namely the 20 years of the regime. The information-gathering and control requirements of the state apparatus, that is, the "information State" (Higgs 2004), has shaped both the domestic policies and the nature of state surveillance in modern Italy and has cast a shadow that has had long-lasting effects and calls for further research.

With this contribution we envisage providing both answers as well as new questions. These questions pertain both to the implications of the ways which characterized the defascistization process in Italy and to the consequences of new state–law–individual relations. In particular, we argue that while the drivers of state surveillance are apparent (the exercise of power of the authoritarian

state), it seems difficult to fully evaluate the impact of a combination of structural, political, legal, social and cultural legacies. Here we attempt to examine bidirectional relations, such as that between the state apparatus and the ideological superstructure behind it, as well as between the social and the individual body. Such relations have been separately analyzed in the existing literature. Within this framework, both the administrative machinery and the politicization of maternity have been considered as potential tools for achieving the common goal of obedience and conformity. The normalization of social control and surveillance relied on powerful mechanisms and dynamics which combined political, social and cultural elements.

Notes

1 Regio Decreto Legislativo [Royal decree] n. 29/B/1943.
2 Regio Decreto Legislativo [Royal decree] n. 9/1944.
3 Regio Decreto Legislativo [Royal decree] n. 134/1944.
4 Decreto Legislativo Luogotenenziale [Legsilative decree] n. 159/1944.
5 Decreto Legislativo Luogotenenziale [Legislative decree] n. 702/1945.
6 Decreto presidenziale [Presidential decree] n. 4/1946.
7 Legge [Law] 326/1949.
8 In particular the Decreto Legge [Decree Law] n. 48/1948.
9 Regi Decreti [Royal decrees] n. 1054–1058/1924.
10 Moreover, the special jurisdiction aimed to exclude public employees from the process of unionization which characterized other sectors of the labor market, and, broadly speaking, to divide the workers' movement and minimize social conflict. It confirmed the corporative approach which had been implemented during the Fascist regime. As a consequence it weakened the major trade unions (such as the leftist CGIL or the moderate CISL) among the state employees in favor of small organizations of corporatist syndicalism (Cavarra and Sclavi 1980).
11 Testo Unico January 10, 1957 n. 3.
12 Legge Delega [Delegated Law] n. 289/1968 and n. 775/1970.
13 Decreto Legislativo [Legislative decree] n. 29/1993.
14 The authors used an electronic version of *Social Bodies. Science, Reproduction and Italian Modernity* by Horn (1994). This kindle book does not include page numbers, only positions.
15 See, for instance, the case of Giuliani and Gaggio v. Italy: http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001–104098#{"itemid":["001–104098"]}.

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7 Surveillance, lustration and the open society

Poland and Eastern Europe

Ola Svenonius, Fredrika Björklund and Paweł Waszkiewicz

7.1 Introduction

Poland's post-war history is characterized by extensive state surveillance, first during the communist regime, then in the current democratic one. That surveillance before 1989 was extensive is well known, but perhaps less so that Poland dominates the European Union's statistics on telecommunications data retention requests today. In fact, the country stands for 88 per cent of all requests reported to the European Commission in 2012, none of which is subject to judicial control (European Commission 2011: 11, 2013: 7). This is not the only indication that surveillance in Poland is still endemic. Sensitive information from the former communist secret police archives is often "leaked" or otherwise published about victims of surveillance or collaboration with the former communist regime; the country has one of Europe's largest private security sectors; towns and cities use elaborate video surveillance schemes in their advertising to attract new residents; the Warsaw police (very successfully) uses high-tech surveillance equipment, originally intended for cracking down on organized crime, to generate parking tickets; and inter-agency sharing of information collected through, for example, video surveillance is extensive and unregulated (Björklund and Svenonius 2013; Svenonius 2011; Waszkiewicz 2011). All of these practices paint an image of the Polish state as surprisingly insensitive to intrusive surveillance.

On the other hand, intrusive surveillance practices can be found anywhere in Europe. What is interesting about surveillance in Poland, and in Eastern Europe generally, is its possible historical significance. Is there a relationship between today's surveillance and practices during the communist era, and how did surveillance function before 1989? Is surveillance in democracies per definition something qualitatively different from surveillance practised by totalitarian states? How do intelligence agencies work differently today, given the huge amount of digital information available? In this chapter we address these issues.

In a discussion on the history of surveillance the former communist regimes in Central and Eastern Europe (CEE) seem to be obvious examples of systematized and overzealous social and political control. In contrast to the "little sister", as discussed in the Introduction to this volume, communist states in the CEE were cases of "Big Brother" surveillance, modernistic state control taken to its

logical end point: highly secretive and extensive information systems aimed at the control and subjugation of entire populations were their defining characteristics. Surveillance practices such as infiltration, mail interception and wiretapping were integrated aspects of everyday life, although large differences in scope and efficiency existed between different countries. Generally, they were also paralleled by a culture of denunciation and, more frequently towards the end, corruption. Surveillance in the authoritarian communist regimes did not aim exclusively at uncovering information, but to change the societal "moral fabric" as a whole, to produce the perfect citizen and maintain ideological supremacy of the ruling party (Almgren 2009; Holquist 1997: 416).[1] Today, when one looks back at how surveillance functioned in the communist regimes it becomes clear that merely studying the surveillance practices themselves is inadequate, and that one has to discuss their wider societal effects as well.

The current regime in Europe is organized – at least in theory – by the principle of the open society. Most European states and the European Union take pride as defenders of political and human rights, transparency, and democracy. The open society is a political ideal that takes the totalitarian police state as its counterpart (Friedrich and Brzezinski 1999), and therefore the inclusion of the formerly communist societies brings a delicate conflict into those communities between what legacies of communist government may persist, and the desire to create transparent and democratic institutions. The programmatic adoption of national legislations in fields like data protection in nearly all CEE countries – both EU member and non-member states – bears signs of this conflict. An area where the conflict between new and old institutions is perhaps the most evident is *lustration* – processes of "purification" or "unravelling" of the past in the former communist states. Lustration usually refers to the systematized vetting of public servants in search of former collaborators, and is one of the main governmental modalities for dealing with human rights abuse by the secret services during the communist era.[2] The principle of the open society usually requires some form of transitional justice in order to be credible. Lustration, then, allows us to ask questions about the current democratic regime by observing what aspects of the former communist regime are being subjected to transitional justice policies. In other words, lustration tells us much about the historicity of the former democracies in the CEE.

Ever since the fall of communism in Europe, the issue of transitional justice – of which lustration is part – has been a controversial topic and a focus for social scientists. Research focuses on explaining how and why lustration processes are initiated, what effects on democratic governance and trust in political institutions it may have, and how to characterize differences among lustration policies (see e.g. Appel 2005; Calhoun 2002; Choi and David 2012; Horne 2011; Stan 2009). Surprisingly, research on lustration generally has not yet addressed the issue of surveillance in a substantial way, although it belongs to the main reasons why such processes may be needed. In the area of relevance to surveillance studies, there is little research on surveillance in post-communist societies available to an international audience. Using Poland as an exemplary case, this chapter makes an attempt to partially fill this gap.

Below we take lustration as a point of departure in an analysis of how surveillance functioned during communism and how surveillance practices have adapted to the new regime based on the open society principle. Our main focus is to show how surveillance practices have shifted from being based mainly on human observation to technologically mediated systems of social control. We argue that this seemingly simple shift in application (old to new surveillance) nevertheless exemplifies how surveillance operates within the open society.

The analysis is mainly based on secondary sources, for example, analyses of communist archives, journal articles, and, to a small extent, news media material. Primary sources (legislation texts, EU statistics, interview data) derive from a recently initiated project on post-communist legacies, trust and surveillance in Central and Eastern Europe, and research carried out at the Södertörn University from 2008 to 2010 on video surveillance in Poland.[3]

The chapter begins with a discussion on surveillance during the post-Second World War communist era. Subsequently we focus on lustration processes across the CEE, including the various effects and motivation in different countries. Finally, we discuss contemporary surveillance practices in Poland and the CEE, and relate these to the issues of lustration and the open society.

7.2 Surveillance during the communist era

In this section we first discuss surveillance on a more general level, and subsequently look closer into the case of the Polish secret police Służba Bezpieczeństwa (SB). The aim of this section is to provide an account of the theoretical and practical mechanics of surveillance in the communist regimes; to show that, despite other technical means, infiltration remained the main source of intelligence until 1989. Infiltration as a modus operandi here viewed as a panoptic technology of power that generates an uncertainty about who can be trusted and poses questions about whether one is under surveillance (Foucault 1977). As we will see below, the lack of trust was a significant factor that guided the SB surveillance.

During the Stalinist period the communist states and the Soviet Union were totalitarian societies (Friedrich and Brzezinski 1999: 230f.). In the post-Stalin period, many of the communist states in Europe began to develop towards a more pragmatic, though not necessarily less repressive authoritarianism, mainly but not exclusively because of the inability to control popular dissent.[4] In Czechoslovakia, Hungary, Poland and Yugoslavia a private sector with some autonomy existed in the 1970s to 1980s despite periods of severe repression; in Albania, Bulgaria, East Germany and Romania, however, totalitarianism or severe authoritarianism persisted until 1989/1990.

Probably the biggest state police (relative to the total number of citizens) was the East German Ministry for State Security (Ministerium für Staatssicherheit) better known as Stasi. It is estimated that between 1950 (when it was founded) and 1989, the Stasi employed a total of 274,000 people (Koehler 1999: 8–9). In 1989, the Stasi employed 91,015 persons full-time, 173,081 East German unofficial

informants (*inoffizielle Mitarbeiter*) and 1553 West German informants (Gieseke 2001: 58, 86f.). Many records from Berlin Stasi archives were destroyed before they were seized by the federal commissioner – this was common in post-communist countries – and according to different estimations the total number of Stasi unofficial informants was somewhere between 200,000 and 2 milion (Müller-Enbergs 2007: 40). The later estimation would be equal with one-eighth of the total East Germany population (Statistisches Jahrbuch 1989: 8). In Poland, the secret police was the Security Service of the Ministry of Internal Affairs (Służba Bezpieczeństwa Ministerstwa Spraw Wewnętrznych, commonly known as SB). Łoś and Zybertowicz (2000: 40ff.) show that the organizations grew significantly following the Gdansk demonstrations of 1981. In 1989, the Ministry of Internal Affairs in total employed about 125,000 people, not including secret collaborators. There were 24,300 officers employed by the SB (Piotrowski 2004: 45).[5] The Ministry of Defence, and especially the Military Counter-Intelligence Service, constituted an additional institution with its own 25 to 30,000 agents and 4500 functionaries. The cooperation between the Ministries was extensive.

The Polish secret police was known to be more violent and cruel than its counterpart in East Germany, but in total the punitiveness of the Polish regime was milder than the German one, partly because the Polish Communist Party was more heterogeneous and irrational than in other Communist countries (Flam 1998: 54f.).[6] The infiltration as logic of government in Poland according to this account developed less coherently than in East Germany, but the security machinery was nevertheless vast and very real for the Polish population (Svenonius 2011: 85). Below we expand the account on how the Polish SB operated. We show that the infiltration techniques were key to state security and that it was also the most meaningful activity for the SB itself.

7.2.1 The Służba Bezpieczeństwa

> The protection of socialist socio-economic relations and society by official legal measures (especially those provided by criminal law) is insufficient and therefore one should refer to ways of greater efficiency, which are provided by covert operations.
>
> (Pikulski 1988: 16; authors' translation)

This quotation from the manual for SB agents, published in 1988 for internal use, is a good introduction into the world of SB. It shows that the legal system of the People's Republic of Poland (PRL) was not a priority in their work. It explicitly expresses the goals of activities and sources governing that institution. The SB activity was subordinated to the guidelines of the Polish United Workers' Party (Polska Zjednoczona Partia Robotnicza (PZPR)) and the government (which in certain circumstances was a significant difference). It was only in the third place that SB was subjected to the laws of the communist regime. In other words, the secret police's priorities were defined in the following order: party, state, society. More specifically the scope of the SB work consisted in the

protection of the party and government authorities, and to inform the party and state leaderships about the situation in the country and threats abroad, in addition to taking care of the interests of the socialist state in their everyday work. This was a general feature of secret police agencies in the communist regimes before 1989.

One of the most important focal points of the SB was the Catholic Church. Religion was of fundamental importance to Polish society, and the Church was one of the main sites for organization of resistance during the communist era.[7] Wiretapping and microphones were probably a feature of every bishop's residence. The Catholic Church was aware of those operations but not of their scope. Sometimes the technical equipment was revealed during redecorations, such as in Przemyśl where several microphones were found in different locations of the building. After submitting an official question to the government it was called a provocation made up by the Church (Chmielowiec 2009: 156).

Surveillance was endemic to the communist regimes, which built on a tradition of Soviet totalitarianism that already in 1920 (and earlier by the Bolshevik movement) initiated very thorough surveillance schemes.[8] The goal was not only to root out potential dissidents, but also – and far more ambitious – to know about and control the Soviet population (Stan 2006: 5).[9] Essential mechanisms of the totalitarian regimes were built on surveillance, to the extent that it became inseparable from the system as such, including the ideological narrative of Marxism-Leninism, which was built on a dichotomous view of loyalty and treason that justified population-wide surveillance (Almgren 2009: 455ff.). Law enforcement and secret service agencies needed to control popular dissent, and to have mechanisms in place to identify individuals and groups that challenged the ruling ideology. Moreover, it was important to know the mood of the population as a whole. Abiding by this principle, the SB also had another task in addition to the aversion of threats to the party and the state. Like other state agencies it needed to be actively involved in the socialist education of society (Musiał 2007: 40). It exercised institutionalized surveillance of all possible areas of Polish citizens' activities that were identified as important by the PZPR. Methods and tools used by the SB created a secret "channel" to the people as well as political processes behind the scenes, which lent the beneficiaries of that information a certain leverage and influence over monitored subjects and by extension the course of events in Poland (Musiał 2007: 321). Hence surveillance became a historically unsurpassed momentum in the communist societies in the CEE, and played a key role in securing stability of the regimes. While technical means became increasingly popular as tools of surveillance during the post-Second World War period, it was – as we will see – nonetheless predominantly focused on human infiltrators. Infiltration and the use of informants was such a general phenomenon that it became constitutive of what the communist system was all about.

7.2.2 The Służba Bezpieczeństwa's use of secret informants and technology

Using (secret) informants was the dominant surveillance technique throughout the 45 years of communist rule (1945–1989). In Poland, their number was estimated at a staggering 90,000 at the end of that period.[10] According to not yet revealed SB statistics quoted in an agent's Masters thesis at the SB Police Academy in 1985 (Wyższa Szkoła Oficerska im. Feliksa Dzierżyńskiego, named after the founder of the infamous Russian Cheka), more than 90 per cent of the data obtained during covert operations were coming direct from "personal sources of information" (osobowe źródła informacji (OZI)) and only the remaining ten from technical sources (Musiał 2008: 5).[11] Notwithstanding the vague source of this information, it gives us a hint of just how important human surveillance was to authoritarian intelligence. Technical surveillance was actually quite marginalized. In the internal Instruction no. 03/60 of 2 July 1960 on basic tools and forms of conducting covert operations, it was stated that "it generally plays only a supporting and monitoring role of secret associates" (Musiał 2007: 305). When looking at technically mediated surveillance, it seems to make sense only in relation to the main source of surveillance data, i.e. the informant or the infiltrator. However, SB (secret) Instructions from the 1970s and 1980s contained more information on technical means of surveillance which may be a sign of their growing importance. We will later return to possible explanations of this proposition, such as traditions in the SB organization, the availability of surveillance technology and the logic of authoritarian surveillance.

It would be easy to view human surveillance during the period 1945 to 1989 as unitary, but this would be a mistake. The practices of managing OZI and other collaborators changed several times, both in terms of desired OZI motivations and their internal categorization at the SB. While in the internal recruitment instructions during 1945 to 1953 the secret police agents were to recruit secret informants based on their patriotic feelings and possible criminal charge evidence, the following periods (1953–1960 and 1960–1989) witnessed a significant shift into financial or broader "material" motivations, though not forgetting of course blackmailing, which was considered a supplement (Musiał 2007: 290).

In the early period the OZI were classified into two groups: "agent", a person who was loyal and devoted to a secret police officer; and "resident", a person who was managing a group of other agents instead of a SB officer. Another way of collaborating with the SB was to deliver information orally on an ad hoc basis (Musiał 2007: 277). Following the implementation of Instruction no. 03/60 of 2 July 1960 on basic tools and forms of conducting covert operations by the SB, a new form of secret informant/OZI was created: a secret associate (tajny współpracownik (TW)), similar to the Stasi's inoffizielle Mitarbeiter. In the Instruction of 1970 yet another kind of OZI was added: the consultant. A consultant was a specialist in a certain field who prepared different kinds of expertise for the SB, of course in a secret manner (Musiał 2007: 279–280). The SB was careful not to rely on one of these less institutionalized informants alone,

which can be interpreted as a manifestation of distrust: there was never only a single TW during each operation – there were always at least two to verify data and loyalty (Musiał 2007: 296).

These changes show more than just organizational adaptations to available sources. The vast network of informers used in the intelligence machinery came with high costs. To use infiltrators and informers the SB would have to tie each individual to either its own officers or delegate this task to local informer network managers, or "guardian angels" as they were called (Łoś and Zybertowicz 2000: 48). The more recent informer "types" – TWs and consultants – represent ways of collaborating with the SB without too much effort either on the part of the agency or of the informer. An ad hoc information transfer – a "leak" in contemporary language – is quite different from traditional infiltration, and the consultant status was probably a way of keeping a large and diversified informer network but without the ambition to treat all individuals as "proper" agents.

The SB also developed a division of labour based on "bureaux" specializing in certain surveillance techniques. It was seldom the case that the case worker also managed the surveillance. Using covert operations through one of three SB bureaux (T, W and B, named after their respective expertise) required the responsible SB officer to send a request to one of the three departments. Following the execution of that request the surveillance results (photos, statements from the observation, eavesdropping, copies of letters) were sent back to the officer for analysis (Ciupa and Komaniecka 2011: 7).[12] The actual surveillance was carried out by SB officers who were fairly ignorant of the substance of the case. This is well illustrated by the following statement of one of the agents whose task was stake-outs:

> I was following the object for eight or ten hours, and sometimes longer. In the sun, in the rain, sometimes freezing cold. I wasn't thinking because it wasn't my job. My job was to have a camera and radio. Usually I did not even know who I was following. Often, I only got a picture and general leads to an object; sometimes not knowing that I was following the militia or a colleague from the firm. We were kept secret even from other SB departments and militia. Only our commander was located in the official command. Our base was located in undercover premises, for example under the name of an industrial plant.
>
> (Stanisławczyk and Wilczak 2010: 45; authors' translation)

The scope of surveillance was close to a perfect panoptic system where the surveilling parts – militia and SB officers – could never be sure that they were not being monitored by other agents. The system was extremely well organized and every "puzzle" or cog in the machinery was responsible for just a section of the whole. It was also a signal of distrust towards their own employees who could not be trusted – as a microcosm of communist societies in general, everybody to some extent was controlled by somebody else.

Against this background the relationship of the Polish people with the communist state is surprising. While fearful of its repressive and violent character, the Poles were at the same time highly disrespectful towards and even taunted the state, which was perceived as shapeless and clumsy, too disparate and irrational to achieve anything. The "Komuch" is a derogative term used to describe this "cynically comical description of the communist 'monster'" (Wierzbicka 1990: 8f.). However, the relationship to the Komuch is far more complicated than that, which is evident in the way that the Polish society and politics dealt with the issue of transitional justice and, of course, lustration. As we discuss below, lustration occurred rather late in Poland and was a comparatively mild, but still rather controversial, process. In the literature several explanations for this fact occur, such as the consensual ending of the communist regime, corruption, and the difficulty in reaching agreement on lustration policy. One explanation that connects with the latter is the difficulty in determining a valid definition of collaboration, which the different types of informers show. Below we continue our discussion on surveillance but now with a more strict focus on lustration, first across the CEE and then with particular focus on Poland.

7.3 Lustration processes in post-communist Europe

In 1989/1990 the communist regimes in Europe fell and in 1991 the Soviet Union was dissolved. The velvet revolutions and the coming transformation to democracy became very difficult times both for the political system to manage, and for the populations, who had to pay a high price for democracy (Ó Beacháin *et al*. 2012; Sztompka 2000; Svenonius 2011: 89f.). When regimes such as the Polish one collapsed the new order had to ensure a certain degree of control over key institutions in order to direct patterns of behaviour in a desirable direction. There are at least two motives for this: first, to ensure the public's trust in the new regime; and second, to guarantee "political production" in terms of policy output (Calhoun 2002: 507; Horne 2011: 415; Killingsworth 2010: 279). Leaving aside for a moment the moral motive of "cleansing" the state apparatus of functionaries of the previous regime, this is ultimately what the theory behind lustration is about. Lustration is therefore directly related to the ruling ideology of the past regime in general, but in particular to its functionaries and the surveillance practices because that was how the state security apparatus "communicated" with society (although it was a forced one-way communication).

Being a region of diverse political cultures and heritages, the CEE states faced quite different prerequisites after 1989/1990 when the issue of how to deal with the communist past emerged. While some countries managed to enforce lustration policies very quickly, others have yet to succeed.[13] Today, most European countries with a communist past have either tried or (more or less) successfully implemented lustration laws that in different ways try to cast light on the continuity of old communist networks in the present-day public administration, in the media sector or in academia (Horne 2011: 419).[14] Lustration is chiefly aimed towards elected politicians, high-ranking civil servants, and specialists in

various areas. It is not a mechanism for identifying collaborators in general, only those who hold public office, and in some cases it is used to dismiss these individuals. As mentioned in the introduction, lustration research is a rather rich subfield of policy analysis that studies the motives and effects of lustration processes. In the literature, lustration is considered to be quite a destructive process that brings few positive effects (Horne 2011: 414). Neither trust in the new regime, nor the effective "cleansing" of former communist collaborators is typically achieved. The two positive exceptions are East Germany and the Czech Republic, where lustration was initiated quickly after the fall of the communist regime, and was comprehensive in scope (Appel 2005: 384ff.). In other cases, such as Poland and Romania, lustration was either initiated late, not at all, or carried out in the context of nationalist or populist party politics (Bachmann 2006; Horne 2011; Stan 2009). Unfortunately, many researchers seem to view the effects of lustration as uniform, which clouds the differences between the CEE post-communist states.

Some have, however, attempted to differentiate between various types of processes both in terms of policy design and implementation. Kaminski and Nalepa (2006) distinguish between mild and harsh lustration laws, basing their judgement on the severity of the prescribed consequences for former collaborators. Choi and David (2012) formulate three types of lustration process: dismissal, exposure and confession. Dismissal refers to policies where the subject is prevented from accepting positions in public institutions; exposure to the publication of known collaborators holding public offices; and confession, finally, to the more or less voluntary declaration of one's relationship to the regime before 1989. Basing their analysis on survey data in three typical cases (East Germany, Hungary and Poland), Choi and David provide evidence that exposure actually increases popular distrust of the political system, whereas dismissal and confession have yielded more positive results (Choi and David 2012: 1124f.). Table 7.1 displays the results of combining these two perspectives.

As we can see, the dismissal type is most common, which seems natural perhaps, given the problem that these policies were intended to address.

Table 7.1 Type and severity of lustration policies in the CEE

	Harsh	*Mild*	*No lustration*
Dismissal	Czech Republic, East Germany, Estonia, Latvia, Lithuania	Albania, Croatia, Romania, Serbia, Slovak Republic	Belarus, Bosnia and Herzegovina, Kosovo, Moldova, Montenegro, Ukraine
Exposure	Bulgaria (mix)	Hungary, Macedonia, Slovenia	
Confession		Poland	

Sources: Bohnet and Bojadzieva (2011); Horne (2011); Kaminski and Napela (2006); research by authors.

However, there are large variations among different countries and in particular within the group of dismissal lustration policies. The reason that a policy is labelled "mild" is often that its implementation is lacking or non-existent (a purely symbolic regulation), not that the policy itself is necessarily mild. Albania is a good example of this, where the dismissal-type lustration act is currently suspended by the courts, although it is still formally in force.[15] The most typical examples of the dismissal/harsh box are East Germany and the Czech Republic, where dismissal-type lustration policies were initiated very soon after 1989/1990. In the case of East Germany the lustration was extraordinarily comprehensive, and over 10,000 schoolteachers were fired. In the Czech Republic, the first lustration act was set with a temporal limit until 1996, but was subsequently prolonged and eventually made a general law.

The Baltic States are special because they were part of the Soviet Union, and there transitional justice mainly revolved around the dichotomy between the national population of Estonians and Latvians *vis-à-vis* the Russian population. In these countries the nationalist character of the lustration policies was particularly accentuated, and carried very strong ethnic qualities. The Russian population was even a majority at the end of the communist era. In Latvia, its presence was a sign of Soviet dominance, and today it is a large minority, albeit often without citizenship and therefore without certain political and social rights. In Lithuania there was no such large immigration of Russians during Soviet times and therefore the ethnic element of lustration is not present in this country to the same extent as in the other two.

Lustration in the European post-communist states tends to be an ambiguous project. On the one hand, there is a clear need to reconcile and react to the past – not only from the perspective of those who suffered under the oppression but also from organizations such as the European Union and the Council of Europe. On the other hand, because of the difficulties inherent in any project of self-inspection, lustration is a type of process where implementation, the ability to formulate long-term policies, and striking the right balance between harshness of sanctions and the desire to uncover hidden truths are notoriously difficult. These difficulties also arise out of the fact that those who would be targets for lustration by definition hold positions in key public institutions, and therefore have the ability to influence all stages of the policy process. In many circumstances a shift in government has been followed by modifications of lustration acts. In other cases constitutional courts have found lustration laws, or aspects thereof, to be unconstitutional. In addition, there are almost no cases, except possibly the Czech Republic and East Germany, where lustration has not been used as a tool for power struggles between political parties in the new regimes. These factors render lustration processes even more problematic from a legitimacy and trust perspective.

On a general level there is a direct relationship between the pre-1989 surveillance practices and the post-1989 policy response that seek to reconcile with their effects, i.e. lustration. The logic of the communist regimes encouraged the secret services to create vast networks of informants and infiltrators. These

practices of surveillance in turn determined the problem that lustration policy addresses in the aftermath of the velvet revolutions. In some more comprehensive lustration schemes, civil servants and elected politicians were only two of many groups that were vetted, whereas in "thinner" schemes perhaps only one group (e.g. judges) were targeted. Taken to its logical conclusion, this is the "degree of nastiness" argument (Rupnik and Zielonka 2012: 18), according to which the lustration policies can be explained by the severity of authoritarian oppression during the communist era.

The point we make here, however, is more general and simply states that lustration policies are determined by the contextually contingent forms of surveillance that were practised to the extreme in all communist societies, although with varying degrees of intensity.[16] In this sense, all the lustration debates and scandals discursively re-enact and reproduce experiences of totalitarianism, but now in the context of a democratic, open society. In the CEE, large informer networks in themselves, possible loyalties to a long-lost political system, susceptibility to corruption, retaliation or moral reconciliation, and knowledge about the communist past are all motives to perform lustration of public institutions. A critique against lustration has been that the means through which these motives are operationalized themselves display a continuity between the communist and the democratic regimes (Calhoun 2002: 506). The cleansing becomes part of what is to be cleansed, and this is particularly true of exposure-type lustration.

7.4 Lustration in Poland

The Polish experience is a fine example of these tendencies. The political discourse on lustration during the 1990s was infected and characterized by a large number of accusations, resignations, speculations and debates about whether or not the open society was compatible with lustration.[17] The famous speech by Poland's first elected Prime Minister after 1989, Tadeusz Mazowiecki, which included the concept of a "thick line" separating the present from the past, set the agenda for the lustration debate. It was not until 1997 that a bill was finally accepted by the Polish Parliament, and it lasted two further years before the first vetting process began. The Polish lustration act is of the confession type, and requires people holding certain public offices to submit an affidavit answering questions about collaboration with the communist regime, and the SB in particular. This procedure is repeated every time a person is hired, regardless of whether he or she had signed the same affidavit in earlier positions.[18] Despite the positive interpretation of the law by Choi and David (2012), it was sometimes considered to be ineffective and a little paradoxical. The practice of confession became a form of surveillance in itself, where subjects had the choice between privacy infringement or social marginalization, and where the actual collaboration was almost irrelevant. The former Polish Commissioner for Data Protection, Ewa Kulesza, comments on the lustration policy in the context of holding university positions:

> If you honestly wrote that you were actually a very committed collaborator with the secret police – you could stay and teach students. So it was a kind, you know, schizophrenic situation. Those who refused because of protecting their own privacy faced being unemployed. Those who confessed of being collaborators could stay.
>
> (Kulesza 2008)

The schizophrenic situation ensues where withholding information is actually more serious than having been a collaborator. The moral relativism that Kulesza described in the above quotation should also be understood in the context of contemporary Polish politics, where socialists are critical of lustration (some surely for personal reasons), and conservative nationalists are demanding more and fiercer policies, regardless of the consequences for the current political system. The lustration policy, the long way to its realization and the contemporary vetting practices are in a way symptomatic of the Polish case and expresses the complexity of transitional politics.

The lustration policy became even more problematic from a moral point of view after a shift in the policy in 2006. The lustration committee began its work in 1999 but was replaced in 2006 by a research institute now tasked with lustration as well, the Institute of National Remembrance (*Instytut Pamięci Narodowej* (IPN)). The IPN has been caught up in controversy ever since, for example, in the case of the long-standing accusations that former Solidarity leader Lech Wałesa was a secret informer. Lech Wałęsa was supposedly registered under number 12535 on 29 December 1970 as a secret collaborator "Bolek" (Cenckiewicz and Gontarczyk 2008). In this particular case historians at the IPN took a very active part in the debate. Many Poles believed that the IPN historians were "memory policemen" with power over what information was to be released to whom and how it was to be interpreted (Kulesza 2008). In addition, the IPN was exempt from the data protection legislation, which had previously stopped the publication of SB files containing sensitive information on, for example, victims of surveillance. There is thus substantial discretionary power in the hands of the IPN, and the agency has been accused of publishing biased accounts, among others by Prime Minister Donald Tusk (New Poland Express 2009). The seemingly technocratic solution of allowing a research institution to manage lustration may have had unpredicted effects that to some extent delegitimized the lustration process as a whole.

There are other aspects of the lustration process that also question its legitimacy. The most important one is the integrity of the SB registry itself. From a technical standpoint, confession-type lustration such as the Polish one requires two authentic sources of information – truthful confessions from current office holders, and valid records of earlier collaboration with the communist regime. Above we discussed the problematic nature of the former. However, the latter is by no means unproblematic. On the contrary: it is well known that the SB created some entries in the registry that were fake. The controversy surrounding Wałęsa was enhanced precisely because of the lack of integrity of the SB

registry. Entries may also have been manipulated after the fall of the communist regime, as was also suspected in the case of Wałesa. Yet other entries are suspected of having been erased already before 1989 so as to protect influential citizens from public defamation (Łoś and Zybertowicz 2000), or during the 1990s for the same reason. The registry that serves as the very foundation of authenticity for any lustration process is therefore a highly problematic source of truth, and any political practice that holds this database as the best currently available option needs to be managed with a degree of scepticism. The Poles are by no means uncritical, and the difficulties of using the SB registry for lustration were recognized from early on. Thus, even before the IPN took over as "memory policemen", the attitude towards lustration among the Polish public was highly ambivalent. Despite the general belief that lustration was a good thing, the confidence in the lustration court was very low, and the confidence in the possibility to prove whether or not someone actually was a collaborator split the population into two opposing camps.[19] As should be clear from this discussion, the Polish lustration process was built on a shaky fundament from the beginning. which may also be an explanation for the delay in the policy process as such and also its implementation.

In summary, the Polish experience of lustration may best be described as mixed. Corruption, the many scandals and privacy infringements cloud much of the merit of a system of transitional justice whose legitimacy in the end depends on reliability and transparency of the lustration process. The lustration process is not only a way to reconcile with the past, but also shows that the status of the "past" itself is problematic. The past here intersects, reminds and disturbs the present and refuses a clear line to be drawn between then and now. The fact that the SB registry is still being used as a political instrument shows that there is a dialogue between the two political regimes. They are temporally separate, but linked through the SB surveillance practices and the personal continuity in politics and public administration. Hence lustration in a way re-enacts the communist regime before the now democratic audience. The question is only who – if anybody – will take the fall for a past authoritarian regime.

We now continue to the topic of surveillance practices in contemporary Poland and, subsequently, its relationship to lustration and the idea of the open society.

7.5 Surveillance and the open society: returning to Poland

Surveillance during communism mainly relied on human beings observing and reporting on others. These were contextually contingent surveillance practices which in turn determined the nature of lustration processes throughout the CEE. They reflect both the aims of the "real existing socialism" surveillance (i.e. ideological stability, fear and discipline), and the level of technological sophistication at the time. In a way, by seeking to overcome the crimes of the past, lustration re-enacts the former communist logic and reproduces the experiences of this human surveillance. Through the continuous debate on lustration in

Poland, these surveillance practices remain a fresh memory. When the two Swedish authors of this chapter entered the field in the first research project on surveillance in Germany, Poland and Sweden, we therefore expected that a strong connection would exist – at least discursively – between the surveillance practices of the communist era and today's "democratic surveillance". This is not necessarily the case. Instead, today's surveillance practices are more often than not seen as appropriate responses to particular security problems, and discussions concern rather how to finance *more* surveillance than its historicity or ethics.[20] Initially this was a surprise, especially since we were already acquainted with the very sensitive German discourse on surveillance and totalitarianism. In this sense Poland – and this is true for other CEE countries as well – presents an interesting case when reflecting on the idea of the open society. However, let us first discuss some aspects of surveillance in contemporary Poland.

The SB routines described above show that secret informers, infiltrators and other categories of more or less closely tied "consultants" constituted the core of the SB surveillance machinery, which consisted of over 100,000 individuals. This machinery was something that existed in all communist regimes, and to a certain extent defines twentieth-century history in Europe as a whole, and most certainly in the CEE. Surprisingly, this link with the past is mostly invisible in the public debate in Poland, where we have done field research and which serves as an exemplary case in this chapter. Today's modern European societies are surveillance-intensive as well, although the educational component of the secret police has been replaced by a focus on terrorism and organized crime. Like the human surveillance before 1989, the technical solutions available today are just as contextually contingent and follow their own logics. Lustration, then, is a heuristic to understanding "democratic surveillance". It allows us to ask questions about the current democratic regime by observing what aspects of the former communist regime are being subjected to transitional justice policies. In other words, lustration tells us much about what type of past is socially unacceptable. Let us now shed some light on law enforcement and intelligence surveillance in Poland today.

The two methods of modern surveillance that are most commonly used by law enforcement agencies today are wiretapping and telecommunications data analysis. The former is more sophisticated than just simple eavesdropping over telephone lines, and includes emails, instant-messaging or VoIP communication. It allows a very thorough scrutiny of the object and is a highly intrusive practice, comparable to the old intelligence techniques. In the Polish legal system all types of wiretapping are defined under the term "operational control" (*kontrola operacyjna*).[21]

Operational control conducted by the police (and by other law enforcement agencies with similar legal status) needs to be sanctioned by the District Court; however, in certain circumstances the police may apply for the District Court ordinance post factum (Police Act §19: 6–9). But is wiretapping carried out to an extent that would encourage describing Poland as a "surveillance society", as was hinted at in the introduction? Table 7.2 gives an indication of the extent of the surveillance.

Table 7.2 Operational controls by Polish law enforcement and intelligence services

	2009	*2010*	*2011*	*2012*
Wiretapping	n/a	6453	4863	3956
Data Retention[22]	1,048,318	1,382,521	1,856,915	1,718,115

Source: European Commission (2013); Panoptykon (2013).

Up until 2011 this was a difficult question to answer. There was no data on the number of operational controls carried by the nine law enforcement agencies that are entitled to carry out such operations. During that year a new law entered into force that obliged the General Public Prosecutor and Ministry of Internal Affairs to inform the Polish Parliament on the number of operational controls.[23] The first report by the General Public Prosecutor contains data not only on police surveillance but also on the eight other law enforcement agencies, and covers the year 2010. In 2010, 6453 people were targeted by secret wiretapping (*kontrola operacyjna*), of which 5824 were targeted by the police. Applications targeting 230 people were denied either by the District Public Prosecutor, the General Public Prosecutor or the District Court (Senat Rzeczpospolitej Polskiej VII Kadencja 2011). Data from the next year shows a steep decline to 4863 people targeted by operational control and law enforcement applications (325 people denied), out of which 3979 were carried out by the police (Senat Rzeczpospolitej Polskiej VIII Kadencja 2012). The decline in the number of people targeted by *kontrola operacyjna* continued in the following year (2012) when – according to information supplied by the General Public Prosecutor – it was applied to 3956 individuals out of which 3258were targeted by the police (towards 250 people denied) (Senat Rzeczpospolitej Polskiej VIII Kadencja 2013).

Unlike the visible decline in wiretaps, the number of inquiries of law enforcement on data retention was growing considerably. The available data is (again) only for a short period of time, but it shows a striking development. From 2009 when there were a little over one million inquiries, in 2012 it had increased to 1.7 million (Panoptykon 2013; European Commission 2013).[24] This data contains information on the subscriber, the history of the user's connections, the identity of the person behind an IP address or a phone number as well as its location (mobile devices). Unlike wiretapping, there is no judicial control of telecommunications data retention – operators are obligated to deliver the information to the law enforcement agencies without prior judicial control.[25] As stated in the introduction, the Polish statistics outnumber all other EU member states combined.[26] These figures show that Polish law enforcement makes *intensive* use of high-tech surveillance and that there is an increasing preference for telecommunication metadata.

How do we explain this? There may be many reasons for this, such as population size, crime levels, type of crime, etc. However, it would be a mistake to overlook the aspect of institutional culture in the high use of intrusive surveillance measures. As shown by Albrecht *et al.* (2003: 436), law enforcement and

intelligence services in different countries do not all carry out surveillance in the same ways. On the contrary, there are traditions regarding how and why surveillance is practised, which in part may be explained by differences in regulation, as Albrecht *et al.* argue. To some extent technicalities, such as overlapping requests, explain the high numbers (European Commission 2011: 21). However, there may be other explanations as to this still very extensive usage of data retention by Polish law enforcement and intelligence: institutional norms, for example, may be highly relevant in this context. In an earlier project, we reported a certain fascination for technology among Polish security managers (Svenonius 2011: 179). It is possible that law enforcement and intelligence officers share beliefs that favour the use of technical surveillance. Another explanation is the tradition in intelligence services, as described above, of the extensive use of intrusive secret surveillance techniques. The methods discussed here were partly already used during the communist era, and they exist in a world of intelligence work as alternative methods to the classical techniques of intelligence (i.e. direct infiltration and the use of informers). Data retention and wiretapping, hence, are in part interchangeable with infiltration and informer networks. Since the use of human surveillance in the new regime is less desirable and politically more problematic – which the phenomenon of lustration shows with great clarity – using communication metadata is another way to obtain the information. The question of whether there is a certain degree of continuity of law enforcement and intelligence culture that stems back to the years before 1989 therefore seems highly relevant. A "technologization" of intelligence methods after human surveillance was rendered almost completely illegitimate following the transformation to democracy. The lustration processes were, in our line of argument, instrumental in this transformation owing to their strict focus on human surveillance.

7.6 Discussion

Implicit in the Polish lustration policy is the claim that state surveillance in the former communist regime is something that belongs to a lapsed period of time. Once liberated, the past is put aside and the good society may flourish, and therefore it is only important that public servants fill in the affidavit, not what they actually did during the communist era. The Poles have been accused of being too lenient during the first years after 1989, and have paid the price (Calhoun 2002). The recent years have seen a "drawback of democracy" in the CEE, with a surge in demand for lustration erupting again. However, these claims are made from a populist-nationalist right-wing position that is not necessarily interested in truth or justice, but in retaliation (Rupnik and Zielonka 2012).

The opposing view, at least in Poland, paints another picture. Lustration is yet another act of surveillance; it has created political instability by digging up old bones. According to this picture the current regime is a rationalistic model of society, constructed on the idea of the open society for all. This model obscures the ability to view history as shaped by path dependencies rather than as a series

of context-neutral choices. Today the CEE states are expanding their capacity to monitor their citizens by different means. What connection is there with past surveillance societies? What does surveillance today mean in terms of private sector cooperation with the state police, distrust of public institutions, and corruption? Is there any path dependence in the sense that authoritarian legacies affect the form and shape of modern surveillance? We have argued that there is path dependency in some respects, and that it is visible in the Polish law enforcement's and intelligence services' use of secret high-tech surveillance techniques, as reported above.

In Poland, public opinion does not pay attention to the expansion of private surveillance; however, NGOs active in the field of human rights and surveillance practices have managed to introduce the topic into public discourse to some degree (Panoptykon 2013). Technologically advanced surveillance is expanding in Poland and the CEE in a similar manner as in the rest of the world. On the surface patterns are the same. National and political pasts do not seem to play any role at all, or only at the margins. We are all involved in the same global process. But there are differences, both in the way that technological progress is perceived, and the role of history. In the discussion on lustration policies above, we have shown that lustration policies differ widely among post-communist societies. Comparing Poland with Germany tells us that there are major differences in how popular surveillance is received. In Germany there is massive public criticism – something which can hardly be found in the Polish case, where video surveillance in Warsaw, for example, is marketed as an act of modernization and as *an end in itself* (Björklund and Svenonius 2013). The reason for this may be historical. East Germany after the fall of the Berlin Wall became part of a united Germany which was constructed on the West German legacy of 45 years of democracy, open society and an ongoing critical introspection concerning the Nazi period. Therefore German sensibilities towards state surveillance practices may be higher than in other Eastern European countries. They only have to cope with the legacy of the communist regimes that were implemented by the Soviet Union after the Second World War. In the end, the Soviet Union is often left with the responsibility for the post-war period, and hence the cultural introspection, which has been salient in Germany, may come too late.

If we want to understand the development of present-day surveillance in democratic societies properly, it is important to study the surveillance practices of the communist era in Eastern Europe. The more we learn from surveillance in these totalitarian societies, the better we can understand the processes and practices that are employed today. Communist surveillance as well as the role of the lustration processes as links between the past and the present remain understudied. There is a significant lack of research in this field. In particular this lack concerns differences between CEE with regard to the countries that joined the European Union after 1989 and those which are still outside. This chapter shows that an important contribution to be attained from a comparison of past and present surveillance gives a more nuanced perspective on the role of technology in surveillance. What is the essential difference between surveillance based on

human presence and surveillance devoid of human involvement? As argued above, human involvement characterized communist surveillance while modern surveillance is technology intensive. Which role does surveillance technology play in relation to different kinds of social organizations and in relation to government, democracy and trust between the public and the public institutions? These are aspects that have to be further explored.

At a first glance, past experiences of communist repression seem to have no relevance at all today. However, there are commonalities both in scope and method. The only significant differences between SB techniques and those used today are their sophistication and replacing people with machines. Take, for example, the protest in Poznań in 1956 (also known as Poznań June[27]). During those few hours SB agents took thousands of pictures of demonstrating workers. It allowed them later to identify and arrest 575 people, and use that evidence to prosecute and sentence 135 people (Ciupa and Komaniecka 2011: 74): all without using any kind of modern information technology.

But the question remains: Is surveillance after the democratic transition different from historic forms of totalitarian surveillance? This is the narrative proposed by, for example, the US government in the wake of the scandal surrounding the surveillance programme PRISM. State surveillance under democratic control is acceptable, or is even a precondition for the open society to exist. However, intrusive surveillance may nevertheless be carried out in democracies without public knowledge of methods used, and intelligence work is highly international in that most countries make use of similar techniques. We have no intention of answering these questions in this chapter, but we are interested in the related question of the relevance of experiences from the communist era in the context of global surveillance practices.

George Orwell's novel *1984* may be understood as a depiction of communist surveillance practice – the state as a monolithic actor has total control over its citizens. The system is built on distrust and denunciation, which means that many people are involved in monitoring others. This type of surveillance is labour intensive. Surveillance in the capitalist-democratic, post-1989, 9/11 context is something else. Surveillance practices are multifold, private as well as state-controlled, in what Haggerty and Ericson (2000) theorized as a "surveillant assemblage". Haggerty and Ericson noted that modern surveillance transforms the traditional hierarchies of surveillance and converges different kinds of surveillance into something that, rather than being characterized by discrete systems, should be labelled as a flow. However, an understanding of surveillance as completely decentralized may cloud the fact that the state is conceptually a different type of political entity than other actors, however influential they may be. Surveillance historically was, and arguably today still is, to a great extent formed within the organization of the (nation) state. The leaks by Edward Snowden show this with great clarity. Even though major actors tend to be transnational, states nevertheless mobilize the most powerful surveillance capacities and direct non-state actors through the use of law. Although state and private surveillance frequently overlap and may be described as interdependent, they are

two fundamentally different things because state surveillance is linked to the legitimate use of violence performed by the state. This is not the case with private surveillance activities.

Despite the dismantling of surveillance capabilities after 1989, this has not meant the death of "Big Brother" surveillance. As we have shown in this chapter, there are signs of massive state surveillance in Poland that urge us to think of legacies of the communist regime. However, this introspection cannot be achieved mainly through academic work, but finds its roots in the public institutions and civil societies of Central and Eastern Europe.

Notes

1 The question that Holquist poses is rather whether this attribute was not a more general phenomenon in Europe at the time, or whether it was indeed the workings of a totalitarian system (see Holquist 1997).
2 Others being, for example, criminal persecution of known collaborators, property restitution to victims, and declassification of secret service dossiers (see Williams *et al.* 2005: 3).
3 Both projects are funded by the Foundation for Baltic and East European Studies and carried out at the Södertörn University. The latter project also includes the University of Warsaw. See www.sh.se/surveillance for more information.
4 There were examples of liberalizations from the communist leadership. See, for example, the aftermath of the demonstrations in Poland in 1956 and the liberalizations during the Prague Spring in 1968.
5 Out of those, 14,000 chose to apply for work in the new secret police after 1989 – The Office for State Protection (*Urząd Ochrony Państwa* (UOP) and the regular police. They were vetted by special commissions – 49 district selection committees (*wojewódzkich komisji kwalifikacyjnych*) and a central selection committee (*Komisja Kwalifikacyjna do Spraw Kadr Centralnych*). The commissions gave as many as 10,000 a positive verdict, which meant that those officers could start their duty in the new democratic institution. Some 3595 were given negative verdicts and were banned from working in "new" law enforcement agencies (Piotrowski 2004: 52).
6 Many Polish party members and bureaucrats shared the disbelief in the regime's possibility to salvage Poland and instead used their positions for personal gain. Although the central state at times attempted to dispense with some low-level bureaucrat nepotism, this never extended to the higher ranks, nor widely in society.
7 In the early 1950s it led to the imprisonment of Cardinal Stefan Wyszyński, a charismatic Polish Church leader. In 1953 he was imprisoned at Rywałd, and later placed under house arrest in Stoczek, Prudnik and Komańcza for the next three years. During that time he was constantly monitored by infiltrators – among the agents were also priests and nuns. The SB was also carrying out covert operations during all organized pilgrimages to Jasna Góra, the most famous shrine to the Virgin Mary in Poland and the country's greatest place of pilgrimage (Ciupa and Komaniecka 2011: 54–58).
8 A prominent example of this tradition is the practice of *perlustration*, i.e. opening and perusing written correspondence, which was taken to new dimensions by the Soviet Union after the First World War. Perlustration in Poland was later used systematically, especially at times of elections or mass events, to gather real data on public opinion. Sometimes it led to prosecutions, such as in the case of a letter sent by an unknown author to his friend in which he criticized the Polish United Workers' Party (*Polska Zjednoczona Partia Robotnicza* (PZPR)). Despite not having signed the letter, the police – analysing the content, the way of writing and the circle of friends of the

recipient – were allowed to identify and prosecute the author who served one year in prison for his disloyalty (Ciupa and Komaniecka 2011: 195; Holquist 1997: 421f.).

9 Holquist actually traces the systematized, modernist surveillance to Tsarist Russia during the First World War, where the Russian political and military leaders imitated projects aimed at assessing the public's "mood". However, it seems that this "governmentality" first became stabilized after the war in the Soviet Union (see Holquist 1997: 426ff.).

10 Notwithstanding this, 90,000 were still fewer than those recruited by the Stasi in the GDR, despite the vast difference in population size (16.8 million in the GDR versus 37.8 million in Poland in 1989).

11 Interestingly, the researchers analysing the remaining SB archives and internal procedures state that the decision to cooperate with the SB "contrary to the claims proclaimed by some of the participants … was mostly not the result of blackmail" (Musiał 2007: 322–323; see also Almgren (2009) on the same issue in the GDR). These conclusions should be approached with caution, however. The SB files' epistemological status is sometimes unclear, i.e. their manifest content may or may not depict reality in an honest and truthful manner.

12 The scenario from the 2007 German drama movie *The Lives of Others* by Donnersmarck depicting surveillance of a famous writer by Stasi agent HGW XX/7 where the very same officer installs eavesdropping equipment, listens to recordings and later interviews the "suspect" is highly unlike the work of SB (and probably Stasi as well).

13 Resisting the urge to reproduce the narrative on society during transformation in the CEE, we do shed some light on variations in respect of lustration and then continue to discuss it in the Polish context more closely. For authoritative sources on the post-communist period see e.g. Ekiert and Hanson 2003; Holmes 1997; Sztompka 2006.

14 The exceptions are Belarus, Bosnia & Herzegovina, Kosovo, Moldova, Montenegro and Ukraine, where no lustration laws have been passed.

15 Kaminski and Napela (2006) actually labelled the Albanian lustration process as harsh, but that was before the courts suspended the current legislation.

16 In a classic Soviet joke, East Germany was known as the "chili" in the Warsaw Pact – the reddest, the smallest and the fiercest (Wolle 1999: 89).

17 See Calhoun (2002) for a detailed narrative on these issues.

18 Since the public offices that were included regularly are limited in time and there are staff changes, some people have signed a number of affidavits.

19 TNS OBOP 2005, p. 3f. The argument refers to a survey conducted in Poland in 2005. The wording of the question was "Do you think that you can conclusively prove that someone was or was not a secret collaborator of the secret services before 1989?" (positive: 41%; negative 41%, unsure: 18%).

20 For more discussion on this topic, see also Björklund and Svenonius (2013: ch. 1, 3 and 5; Svenonius (2011: ch. 10).

21 Police Act of 6 April 1990; §19:6, *Ustawa z dnia 6 kwietnia 1990 r. o Policji (Dz. U. Nr 30, poz. 179 z późn. zm)*.

22 Refers to requests for telecommunications metadata according to the European Union Directive 2006/24/EC.

23 *Ustawa z dnia 4 lutego 2011 r. o zmianie ustawy Kodeks postępowania karnego i innych ustaw, (Dz. U. Nr 53, poz. 273.)*.

24 The figures vary somewhat. Panoptykon records a little over two million requests, while the European Commission data suggests a slightly smaller number: 1,718,115 (2012 data). Regardless, the Polish requests constitute 88 per cent of all requests (several large member states have failed to supply data, however) (see European Commission 2013).

25 In contrast to most other EU member states, requests according to the Polish transposition of the data retention directive (2006/24/EC) have to be sanctioned by a senior official only (European Commission 2011: 11).

26 According to the 2012 figures, the Polish requests constitute 88 per cent of the total number reported to the EU. However, a range of countries, among them the largest Western member states such as Great Britain, France and Germany have not reported any figures. Spain reported figures for 2010 (345,772 requests), but not for the other years. In light of the current leak by Edward Snowden, it seems that failing to report any figures does not mean that no surveillance takes place.

27 The Poznań June were demonstrations by workers demanding better conditions that began on28 June 1956. A crowd of approximately 100,000 gathered in the city centre near the local Ministry of Public Security building. The demonstrations were met with repression. About 400 tanks and 10,000 soldiers were sent to pacify them. More than 50 demonstrators were killed (Paczkowski 2005: 203).

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8 Brazilian universities under surveillance

Information control during the military dictatorship, 1964 to 1985

Ricardo Medeiros Pimenta and Lucas Melgaço

8.1 Introduction: understanding the Brazillian situation during dictatorship

This chapter aims to promote a discussion about surveillance practices at universities during the military regime in Brazil (1964–1985). We aim to analyse how information was monitored and controlled during the so-called "years of lead" and, by doing that, to contribute to the growing interest in debating this recent period in the history of the country, a debate that has expanded following the sanctioning of the National Truth Commission (*Comissão Nacional da Verdade* 2013) by President Dilma Rousseff on 18 November 2012. This Commission has the objective of investigating crimes and human rights violations committed by agents and institutions of the Brazilian State. Some of these violations occurred within the context of Brazilian universities, where a significant number of professors and students were killed or disappeared during the dictatorship.

This chapter will also analyse the role of the Advisory Board for Security and Information (*Assessoria de Segurança e Informação* (ASI)) of the Brazilian universities and the role of governmental bodies like the Department of Political and Social Police (*Departamento de Ordem Política e Social* (DOPS)). DOPS was an institution that had the status of a police force; it was created in the 1930s during the first mandate of Getúlio Vargas, but it acquired particular importance after 1964, in the early years of the dictatorial regime. Its functions were to control and suppress political and social movements that were contrary to the regime. The gathering and organization of databases concerning suspects, opponents and "internal enemies" to the dictatorial government will also be examined through the analysis of the role of state institutions such as the National Information Service (*Serviço Nacional de Informações* (SNI)) and the National Information System (*Sistema Nacional de Informações* (SISNI)).

A military coup d'état against the democratic state took place in Brazil overnight between 31 March and 1 April 1964. In order to understand the reasons for that event it is necessary to go back three years into the history of the country to 1961, when Jânio Quadros decided to quit the position of President of the Brazilian Republic. After his resignation, the Brazilian Vice-President João Goulart took office. Between 1961 and 1964, during Goulart's mandate, Brazil

experienced a period of flirtation with left-wing ideas, when the government seemed to be receptive to the complaints of student activists, rural and urban workers' movements, and popular organizations in general. These signals of a potential agreement between the state and militant groups were interpreted as a communist threat by some of the more conservative sections of Brazilian society, which included entrepreneurs, bankers, parts of the Catholic Church and of the middle class, and particularly military officials.

As a response to this communist threat, and with the support of groups with a right-wing orientation, military officers led a coup d'état which expelled João Goulart from the presidency of the country. After the position of president was declared empty by the Chamber of Deputies and the Senate, a military council composed of representatives of the three armed forces (navy, army and air force) was formed. Within a few weeks this council had appointed General Humberto de Alencar Castelo Branco as the new President of Brazil.

Under the military dictatorship, Brazil was immersed in a regime of exception, which is to say, the government gave itself the authority to make decisions flouting the rule of law. With the installation of the so-called Institutional Acts (*Atos Institucionais* (AIs)), forms of control of the population, including the persecution, imprisonment, torture and assassination of Brazilian and foreign civilians, were promoted by state officials. These forms of violence counted on the collaboration of civilians who denounced actions suspected of being subversive to the military state, even though many of these actions did not go beyond mere suspicion.

In order to identify individuals and practices considered to be "subversive" to the military regime, regardless of how vague the actions classified under this label were, a set of surveillance practices and activities for control of the population were put in place. This was particularly true in the case of universities which, being a space normally dedicated to intellectual and technological development, appeared to be a central node of resistance. This resistance was used by the state as a justification for the implementation of a situation of the permanent and organized surveillance of these educational spaces.

There was indeed, at the national level, the existence of what Braman defined as an "information production chain". This chain had the aim of controlling and manipulating "informational bases" (Braman 2006: 25). According to the author, "the model of an information production chain is useful in breaking down complex communicative processes into their elements for differential analysis and legal treatment of those elements" (Braman 2004: 172). The information production chain produced by the military regime played an active role in the production and organization of a large amount of information about the Brazilian population. As will be shown later, universities acted as a strategic node in such a chain.

The coup d'état, which the agents and institutions of the military state termed "the revolution", plunged the country into 21 years of oppression and created a two-fold situation of growing fear: right-wing groups feared a communist revolution organized by left-wing groups, while left-wing groups feared the

abuses, violence and arbitrary actions conducted by the military government and the police.

During these "years of lead" a *modus operandi* came into being which was at the same time frivolous and rational. It was frivolous because the regime worked from the assumption that any Brazilian citizen or foreigner could be a threat to the established order. In this sense, the only way to prevent possible attacks would be to supervise the population through the production of useful information according to the doctrine of national security. Even General Golbery do Couto e Silva, the right-hand man of President Castelo Branco, and one of the most influential theoreticians of the military state, called this *modus operandi* a "monster" (Gaspari 2002). Such a monster stalked and watched everyone, often without any legal or jurisdictional boundaries. It was also rational because there was an undeniable growth in the entire informational and communicational structure of the government.

During the dictatorship, insecurity and feelings of suspicion became a frequent experience in people's everyday lives. As Baczko pointed out:

> Under a wave of panic, accusation, hypocrisy, and intrigue, no one could trust their neighbour or obtain the guarantee of protection from any institution or individual with which they had any type of contact.
>
> (Baczko 1985: 329)

Such a "monster" structure, which the aforementioned General Golbery do Couto e Silva actually helped to create, was effectively put in place after the approval on 13 June 1964, of Law 4341. This Law (Brasil 1964) established the National Information Service (SNI), the main objective of which was to keep an eye on the actions of militant groups, political parties and civilians, both on those considered subversive and on "good citizens".

The SNI was in charge of feeding the military government with information from its extensive database, which was considered essential to the success of the actions taken by the state. This database included information about political actors, particularly those expelled from their official positions. Files also included detailed information about those opponent actors who managed to remain in their positions by adapting themselves to the restrictive legality of the regime, without however losing their critical perspective. All those who were considered in one way or another antagonistic to the regime were closely monitored. Moreover, surveillance conducted by the state also included the monitoring of social movements, and the monitoring of many other groups that had a discourse or held political views that were contrary to the military regime or that could be framed as taking left-wing or communist approaches.

Thus, the SNI functioned as the intelligentsia of the state against its potential enemies. Its activities involved a set of surveillance practices which included the identification, classification and organization of extensive databases containing a variety of information about enemies. The SNI knew, for example, that in 1985 the football player Edson Arantes do Nascimento, known worldwide as Pelé,

was willing to participate in politics. The interest of the Democratic Labour Party (*Partido Democrático Trabalhista*; PDT) in obtaining his support put the SNI on alert; this party was led by the politician Leonel Brizola (1922–2004), a well-known opponent of the military coup d'état.

Nevertheless, it must be said that surveillance in Brazil was not exclusive to the dictatorial period. It existed both before and after the dictatorship. The importance of the study of such a period, however, resides in the recognition today that the information production chain put in place by the state at that moment helps us to reveal and understand the criminal, persecutory and violent characteristics of the military regime. These characteristics are being deployed and discussed by the aforementioned National Truth Commission. The investigations promoted by this Commission are in particular being conducted into the archives generated by the military intelligentsia itself. In a curious turnaround, the same apparatus that was used in the past to promote surveillance, record data and facilitate state violence is now being used to denounce the crimes of the dictatorial state. Crimes that were once considered by the state and its supporters as justified actions for the maintenance of order are now being depicted in all their perverse details by the Commission.

Through a surveillance apparatus that was even more sophisticated than the one put in place during the dictatorial mandate of Getúlio Vargas, the military regime created a complex system of information, which resulted in a multiplicity of acronyms, as the reader will be able to identify later in this chapter. This system connected the regional and federal police, officers from the three armed services (army, navy and air force), and officials of the public institutions and of the three public powers (executive, legislative and judiciary). This heterogeneous set of political actors formed the so-called "information community", a term used at that time by security institutions. Until that moment, such a complex information system had not existed in Brazil.

The same information system created to identify and neutralize potential "criminals" was sometimes used to "fabricate" criminals by tampering with police reports and simulating resistance led by suspects. There were cases were such falsifications were fabricated in order to hide summary executions. In some cases the regime even invented "suicides" that never happened. One of the most famous cases was that of the journalist Vladimir Herzog who had killed himself in the prison, according to the government's official version of events. Recently, on 15 March 2013, at the request of the National Truth Commission, the Brazilian state officially recognized that his death was due to "injuries and mistreatment". The correction of his death certificate provides a precedent for the revision of many other "truthless certificates" (Borges 2013). Thus, it is possible to affirm that much of what was produced within the "information community" helped to construct a memory marked by the manipulation of data and a "culture of secrecy and silence" (Rodrigues 2008): a memory full of records that never actually existed.

During the years that followed the coup d'état in 1964, institutions and organizations related to the education and formation of intellectuals, scholars,

researchers and opponents of the regime were significantly curtailed. The universities were perhaps the best example of such curtailment. According to the Brazilian historian Rodrigo Motta, the policies directed to universities during that period tried to combine "a modernising bias with authoritarian and conservative initiatives … with the intention of depoliticising debates and repressing any attempt to collective regimentation" (Motta 2008a: 31).

By searching for ways of repressing the political and social mobilization at universities, the military regime limited that which should be the very fundamental characteristic of those spaces: their "institutional autonomy" (Elias 2009). This autonomy from external interference in the scientific and intellectual freedom of scholars, according to the Humboldtian model (Martins 2006: 1005), which had been fought for through a long historical process, was then under threat. Classes were arbitrarily suspended by military officials and the police. There were even cases where agents of the state broke into the headquarters of university student unions looking for all kinds of information that could be related to subversive cells.

Surveillance conducted during that period involved scrutiny of the secretaries of departments and the administrative sectors of universities, and the investigation of faculty, staff and students (Nunes 2003). In spite of the autonomy of the Brazilian university, a militarized control of information and of the university administration took place. The everyday life of the university changed significantly, with suspicion and fear becoming constant, and with rules being dictated by the authoritarian regime.

8.2 Surveillance and the foundations of the information production chain at Brazilian universities

The first years immediately following the military coup d'état were marked by a series of interventions at Brazilian universities carried out to wipe out from educational spaces potentially dangerous faculty staff and students. This "clear-out" worked as a preparation for putting in place a structure of constant and intrusive surveillance. To the military regime and its collaborators within universities, the elimination of those considered undesirable was understood as a necessary effort. Of those regarded as subversives, some were arrested, others were deported and many were closely monitored by state institutions. A vertical intervention was imposed on the administrative structure of Brazilian universities through the implementation of routine surveillance practices led by the police and military agents.

In 1964 the military government put in place what has become known as "Operation Clean-up" (*Operação Limpeza*; Fico 2004: 34). Undertaken at the national level, this operation had the objective of identifying and eventually expelling opponents to the regime from educational institutions, from elementary school to universities. Clemente (2005) illustrated the consequences of "Operation Clean-up" by describing how, a couple of days after the coup d'état, professors from the Department of Physics of the Federal University of Bahia, in

the city of Salvador, were arrested by agents of the Department of Political and Social Order (DOPS) and obliged to respond to the so-called Military Police Enquiries (*Inquérito Policial Militar* (IPM)). Another example comes from the extreme south of Brazil where, at the Federal University of Rio Grande do Sul in the city of Porto Alegre (UFRGS), 17 professors where investigated and dismissed in 1964 alone. This persecution, which Mansan (2009: 95) called a "witch-hunt", was led by an investigation commission created within the UFRGS itself. This commission was formed by professors allied to the military regime, by a spokesperson for the army (General Jorge Cesar Teixeira), and by representatives of the DOPS.

Similar cases occurred in practically all the Brazilian universities following the installation of the military regime. Gama e Silva, the President, appointed three professors to investigate potential "subversive" activities at the University of São Paulo (USP; ADUSP 1979). Almost all the people who frequented the campus (professors, staff and students) were monitored, although for a long time the existence of such a commission was unknown to the majority of people. At the former University of Minas Gerais (UMG), today the Federal University of Minas Gerais (UFMG), surveillance was a common practice and was carried out by the dictatorship's collaborators and by the army itself (Motta 2008a).

As one would expect, students did not passively accept such a totalitarian condition. They frequently organized protests, strikes, riots and demonstrations, which were mostly violently repelled by the police. Student activists played an important role in the Brazilian political situation during the dictatorship. They approached other resistance groups such as the National Liberation Alliance *(Aliança Nacional Libertadora* (ALN)) and Guanabara's Dissent *(Dissidência da Guanabara* (DIGB)), which would later be known as the Revolutionary Movement of 8 October (*Movimento Revolucionário 8 de Outubro* (MR8)). In addition, in 1968, under the influence of the demonstrations occurring in different parts of the world, students organized marches on the streets that united thousands of people.

The reaction of the military regime was relentless, and many leaders of student organizations were arrested. Still, during 1968, the Institutional Act No. 5 (*Ato Institucional 5* (AI-5)) was promulgated on 13 December. The AI-5, signed by the military President Arthur Costa e Silva, allowed the state to revoke the political rights of any citizen for up to ten days and suspend the right to habeas corpus. With AI-5 the state was allowed to summarily arrest any person suspected of conducting subversive actions. The Act also closed the Senate and the Chamber of Deputies for one year and determined that the judiciary could not interfere with the executive power. In short, following the promulgation of AI-5 the student movement was totally repressed and the dictatorial period entered its most gloomy phase.

In the following year, in February 1969, a set of measures was implemented specifically to restrain student organizations. Decree 477 of February 1969 instituted the following:

> Art. 1st. It is considered that a disciplinary infraction is committed by any professor, student or staff member of a public or private educational institution who:
>
> I Entices or incites the deflagration of any movement which aims to paralyse school activities, or who participates in such movements;
> II Makes attempts against persons or goods in buildings of any sort within educational spaces or outside them;
> III Promotes acts concerned with the organisation of subversive movements, non-authorised demonstrations, parades or assemblies, or who participates in such acts.
> IV Leads or promotes, fabricates, prints, stores or shares subversive material of any sort;
> V Kidnaps or keeps in private prison a director, member of faculty, staff, agent of authority or student of an educational institution;
> VI Uses educational facilities to promote subversive actions, or who promotes activities contrary to moral or to the public order.
>
> (Brasil 1969)

If the so-called "Operation Clean-up" was already a reality in the year after the coup of 1964, by 1969 it was, according to the historian James Green, a violent process that had become even more intense and wide-ranging:

> In March 1969, the military officials started punitive actions at universities all across the country. In the State of Pernambuco, for example, the 4th Army requested the Catholic University to compile a list of "subversive" people to be expurgated under the Decree 477.… During the same month, the Federal University of Pernambuco suspended twenty students for three years, in obedience to the Decree 477.… The forms of control were similar in the various regions of the country. In the first semester of 1969 the administrators utilised the decree to threaten or expel approximately one thousand students.
>
> (Green 2009: 184)

The same decree obliged directors of educational institutions to establish an investigative process within a maximum of 20 days in any case of suspicious of subversive actions. The director had to appoint a professor or a staff member of his school to lead the investigative process and notify the suspect, who had 48 hours to present his or her defence. After the defence, the appointed person had another 48 hours to present a report on the process. The directors who dared to disagree with such a law were immediately expelled from their positions.

The surveillance practices led by military officials included the presence of undercover agents, some of whom were placed as staff members in order to gather information and report suspicious activities. Others were infiltrated as students. This seems to be the case in one photograph in the Brazilian National

Archives that was recently made available. The photo, which once belonged to the SNI, shows a group of students participating in a demonstration, where one of the students appears circled with blue ink. On the back of the photo is written "security element", which may be interpreted as a reference to a spy agent working for the military regime. In an interview on 12 November 2012 for the newspaper *Carta Maior*, Luiz Mariano Carvalho, Professor at the University of the State of Rio de Janeiro (UERJ), who at the time was still a student at that university and also a militant of the resistance movement MR-8, immediately recognized the man in the photo as being a student called Oscar, whose behaviour had already raised suspicions among activist students.

In addition, universities were scrutinized by the regional branch offices of the DOPS. They spied, persecuted and prepared detailed reports of the daily activities and behaviours of professors, staff and students. During the investigative proceedings the suspect was suspended or, in the case of students, forbidden to attend classes. University administrations at the same time monitored and received denunciations from their own teaching staff. Fear and distrust became part of the academic everyday life. Proof of this is the fact that from the time of the coup d'état until April 1969, 42 members of federal universities, most of them professors, were compulsorily retired (ADUSP 1979).

The persecutions and investigative procedures in the university environment were only the beginning of a dictatorial regime marked by a politics of authoritarian modernization in the service of a technocratic ideology. This ideology was based on a project of developing "science, technology, communication and culture" (Ridenti 2008: 36). The military government understood that educational institutions were "important instruments for the maintenance of the power and the dominant ideology" (Althusser 1985). As a consequence, the military regime invested in the expansion of the number of universities, with the creation of more than a dozen new federal universities, and in the improvement of quality, which can be verified by the signing of Law 5540 of 28 November 1968 (Brasil 1968). This law established that professors should be hired on a full-time basis and that they should remain exclusive to just one employer. At the same time Law 5540 guaranteed more solid contracts to professors: the full-time and exclusive regime facilitated the control of the state over the university faculties. The general rule during this period was investment in quality accompanied by surveillance enforcement.

The apparatus of political control, investigation and surveillance instituted at Brazilian universities is a good example of what Frohmann (1995) termed the "regime of information"; that is, a set, system or network that permits the circulation of information through channels. During the dictatorship, the Brazilian State instituted a regime of information with the aim of producing, controlling and sharing information. With the objective of reinforcing the national politics of dictatorial and authoritarian control of information triggered in 1964 with the creation of the SNI, in 1970 the state launched the National System of Information (SISNI). The organization chart shown in Figure 8.1, recovered from the Brazilian National Archives (*Arquivo Nacional*), gives an idea of the overall

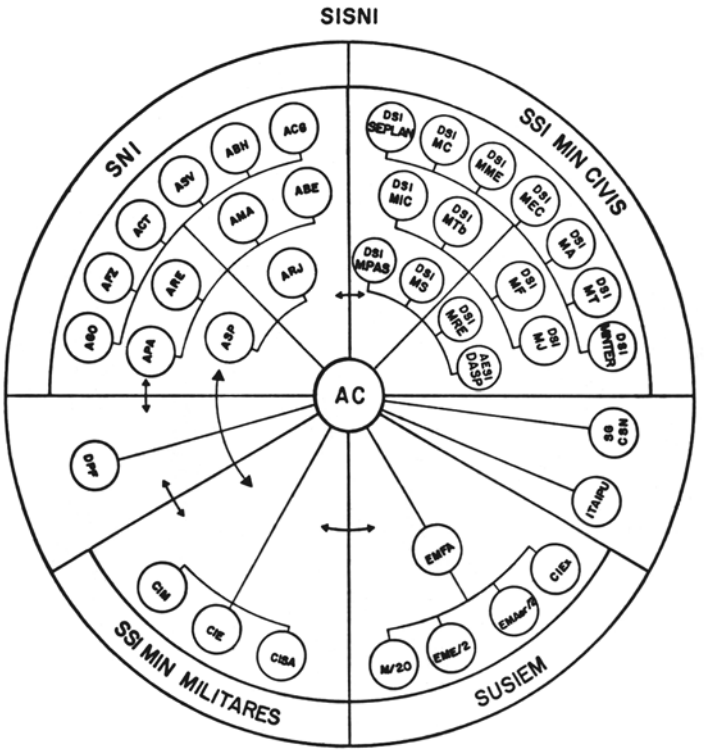

Figure 8.1 Organization chart of the National System of Information – SISNI (source: Brazilian National Archives, Administrative Documentation of SNI (*Documentação Administrativa do SNI, Fundo SNI*, Arquivo Nacional)).

structure of SISNI and highlights the centrality of the Central Agency (*Agência Central* (AC)), which monitored the entire territory, its institutions and citizens.

Each of the four subdivisions relates to a component of the so-called "information community". Looking at the chart, which may also be found in the partial report of the National Truth Commission (*Comissão Nacional da Verdade* 2013), one can identify in the top left-hand corner the SNI with its branches related to the different Brazilian states. In the bottom left-hand corner there is the Sectorial System of Information of the Military Ministries (SSIMM), with the respective information centres of army (CIE), navy (CIM) and air force (CISA). In the bottom right-hand corner one will find the Service of Security and Information of the Major States (SUSIEM). Finally, in the top right-hand corner there is the Sectorial System of Information of the Civilian Ministries (SSIMC, which is the organization referred to in the figure as SSI Min CIVIS). The subdivisions of SSIMC are related to the Divisions of Security and Information (DSI) of each ministry, an organization put in place after Decree 60.940 of 4 July 1967.

In the case of the universities, the surveillance was led by the DSI of the Ministry of Education. In 1970, with the creation of the SISNI, all DSIs from all the different ministries transferred so that they were under the supervision of the SNI. The DSI of the Ministry of Education attempted to pool a large amount of information related to activities considered to be "subversive" within the educational context.

At Brazilian public universities the DSI of the Ministry of Education was represented by the aforementioned Advisory Boards of Security and Information (ASI). These boards were composed of civilians, professors and representatives of the regime and had the objective of gathering information on university members and students in order to feed the "information community".

The information collected by universities' ASIs was kept under wraps for many years, only coming to light in the late 1970s (Motta 2008b: 47–48), when a relative opening up of the archives was possible. An emblematic case occurred in 1986, seven years after the official extinction of the ASIs in 1979. An article published on 28 August 1986 in the newspaper *Diário do Nordeste* reported an invasion of the rectory of the Federal University of Ceará by students. When they gained access to the room where the ASI of that university once functioned, they came across hundreds of folders with information about staff, faculties and students, including accusations and requests for expulsion.

ASI-s worked by feeding DOPS with crucial internal information, which can be verified in Report No. 001131 of the archives of the State Department of Public Order of Santos that may be found in the Public Archives of the State of São Paulo (APESP). In that case, the report describes how the information service of the Department of Public Order of the State of São Paulo (DOPS-SP) monitored the elections for the members of the student union of the Faculty of Law at the University of São Paulo. This dossier of DOPS-SP was elaborated by an undercover agent who had infiltrated the university and who was referenced in the dossier as "the source". In the text, "the source" recommended the sharing of such content with the "information community" (DEOPSSANTOS 1970). This so-called "information community", to which the aforementioned dossier and most of the documents produced by the surveillance organs of the dictatorial regime made reference, was a political network conceived by the regime itself.

In the dossier from DOPS-SP, student groups were classified according to their political inclination as right- or left-wing. The document mentions, for example, the existence of a group of students sympathetic to the Commandment of the Hunt for Communists (*Comando de Caça aos Comunistas* (CCC)). The dossier also provides a history of the political activities of students inside and outside the academic context, including their eventual affiliation with political parties.

The military regime understood perfectly well that interference in the formation of the Brazilian intellectual class was necessary to ensure the dictatorship's permanence. Such interference, as shown in the text, was based on the work of a complex, but also confusing, information production chain full of acronyms, offices and ramifications. On the other hand, the violent means and persecution

used by the state served to fuel the resistance of the student movement. It is no coincidence that many students ended up opting for an armed struggle against the military regime, particularly following the installation of the aforementioned AI-5.

8.3 Final notes on surveillance at Brazilian universities after the end of the dictatorship

The Brazilian dictatorship officially came to an end on 15 January 1985 with the indirect election of Tancredo Neves as the new President of Brazil. However, the process of democracy occurred in a progressive way, with some important events happening before and after that date. These events included the Amnesty Law that had been signed back in 1979, which allowed exiled activists to return to the country. They also included the return of Brazil to a multiparty political system that occurred in the same year. In 1988, the transition process to a more democratic regime was accomplished with the signing of the new Brazilian Constitution. Among its provisions are the limitation of the powers of the executive, the establishment of mandates of a maximum four years with a single re-election of mayors, governors and the president, the institution of a bill of rights and the crystallization of the pedagogical, administrative and financial autonomy of universities.

The political opening up and installation of a neoliberal regime coincided with the deepening of inequalities and the increase of crime in Brazil. The violence promoted by the military regime through the actions of persecution and torture became rarer while there was an increase in more mundane criminal activities, such as thefts and homicides. After the opening, in addition to the already existing public forces of order, Brazil saw an outstanding growth of private security companies.

Public safety, however, continues to be the responsibility of the state and the main force of order in the country is still the military police. This institution preserved the "authoritarian rubbish" of the military dictatorship. Even after the end of the dictatorship, acts of violence and even homicides committed by the police are still a sad reality in Brazil.

Memories of the authoritarian regime have been kept alive in the Brazilian universities, particularly the public ones. Many professors and staff, but particularly students, developed a feeling of suspicion about the presence of the military police. There were many cases, when a police intervention was intended, where students opposed it by recalling the arbitrary actions of the "years of lead". That is what happened in 2011, 26 years after the end of dictatorship, when the military police arrested three students of the University of São Paulo (USP) because they were smoking marijuana in the campus. The student movement reacted by invading and occupying the rectory of the university. They claimed that the autonomy of the university should include the way security is conducted within the campus. The leadership of the university did not accept the students' demands and requested that the police retake the building, which occurred with a violent confrontation with students.

With the democratic overture, the police were, in several Brazilian universities, replaced by outsourced private security companies, which are now those in charge of maintaining order and security on most campuses, with the police being accessed only in the case of the most serious incidents, for example, a violent crime. These companies brought with them new surveillance technologies, with CCTV cameras as the most emblematic but not the only example. Magnetic ID-Cards to identify professors, students and staff, and electronic keys to give access to classrooms, laboratories and offices, now became a reality. In fact, the increase in electronic surveillance facilitated a whole new set of control practices that continue to remind us of the dictatorship. The existence of an "information community" is still present despite its structure and rationale not being the same as it was under the military regime.

An interesting intellectual exercise would be to try to imagine what surveillance at universities would be like if a military dictatorship were in place today. The regime would be able to count on a wide variety of technologies, such as the monitoring of emails, searches on the internet for "subversive" content, searches for posts on Facebook intended to organize manifestations of opposition, checks on a diversity of access logs, and so on. On the other hand, perhaps the dictatorship would not have occurred in the same way in a society where communication can happen from the bottom upward with the aid of social networks, and where, together with centralized surveillance, other forms of lateral surveillance may exist.

What is unquestionable is the fact that the two periods are very different, as reflected in the way surveillance at universities occurs in each of them. During the military period, as has been shown in this chapter, surveillance occurred in a way that is reminiscent of the panopticon, Big Brother and the analogue format: Panopticon in the sense that the surveillance was organized in a hierarchical structure centralized by the National System of Information (SISNI) – as has been exposed, there was a true information production chain responsible for collecting and organizing the information; Big Brother in the sense that the watcher was mainly the state, with its police and security institutions; and analogue because most of the information was recorded in hard-copy format, that is, on paper. The words of today such as "database" and "files" were at that time "drawers" and "papers".

Surveillance continues to occur in Brazilian universities today, but in a distinct way. First, it has become multiple in the sense that it makes use of a variety of new technologies: CCTV cameras, smart ID cards, electronic keys, internet, email tracking and so on. Second, it is not only the state that promotes surveillance, but many other actors have now come onto the scene. Banks and companies, for example, monitor students and their habits in order to sell them products. Professors can monitor the way in which their students use the internet and can at the same time be monitored by students with the help of social networks. In the place of one watching many, we have now many watching one and many watching many. Moreover, with the digitization of academic activities, paper is being transformed into digital forms which leave traces capable of being

monitored more quickly. Finally, the two periods represent different political contexts in the history of Brazil.

A recent event, however, provides a link between past and present. The National Truth Commission, a present-day initiative, has brought to light numerous previously unknown facts about the "years of lead". These discoveries, which include a variety of information about surveillance at Brazilian universities, are only the beginning. It seems that much more is to come in the next few years.

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Part III

ID-Cards as a surveillance method to govern societies

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9 Spain's *documento nacional de identidad*

An e-ID for the twenty-first century with a controversial past

Gemma Galdon Clavell and Pablo Ouziel

9.1 Introduction

Recent initiatives to implement new identity card schemes in different countries have proved contentious. In some countries governments have dropped these initiatives owing to the fear of popular backlash; in others governments have gone ahead and implemented the new systems but have dealt with substantial popular opposition.[1] In Spain, however, citizens have shown little distrust in an identity card (ID) that was made compulsory by a dictator, Francisco Franco – who held the first ("number 1") ID ever issued in the country – and which was conceived as a tool for social control. While the lack of protest in a dictatorial context is understandable, the introduction after 2006 of the electronic ID, with biometric data and e-chip, put the country at the forefront of Europe in the implementation of new generation identity cards, with 12.5 million ID holders and an investment of over 300 million euros. While the context changed (from dictatorship to democracy), the decision, the process and the expenditure did not raise a public debate or any visible opposition.

Could the citizenry's current acceptance of the ID be linked to Spain's dictatorial past? Is the country's leading role in the introduction of biometrics in the national identity card also linked to this recent historical legacy? Does the lack of opposition reflect a lack of understanding of the social control abilities of biometric technology, or does it show a willingness to sacrifice liberty and privacy for an increased feeling of security? While this chapter cannot answer all these questions, it provides the reader with a detailed account of the development of IDs in Spain against its historic background and in relation to other tools of surveillance and social control.

In a scenario of seemingly unstoppable proliferation of ID systems and increased awareness of the risks and implications of such developments, a complex understanding of the social and historical factors underpinning the "ID revolution," the political willingness to embrace it and people's acceptance of routine identification in some parts of the world may contribute to better foresee how to increase awareness of the externalities of ID-Cards and systems. By looking at the specific development of a surveillance apparatus in Spain, and of its long-established National Identification Document (DNI), the following pages attempt to shed light on such questions.

9.2 Surveillance and identification in Spain

Authoritarian surveillance and social control, as well as authoritarian rule, were more the norm than the exception in modern Spain. In the twentieth century alone, there were almost 35 years of military rule (General Primo de Rivera from 1923 to 1930 and Francisco Franco Bahamonde, *El Generalísimo*, from 1939 to 1975), a civil war (1936–1939) and several episodes of military upheaval in the first years of the century. The recent history of Spain shows a stubborn continuity of surveillance, control, domination and revanchism as a political strategy and social dynamic,[2] as well as a continued interest in the classification of its citizens.

Therefore, while we can identify the first few years of Franco's military dictatorship as one of the most vicious periods in terms of control and surveillance, as well as the time when the contemporary Spanish national ID-Card was first designed and implemented, some of the social and political infrastructure that made it possible may be found in the political authoritarianism and religious bigotry of early modern Spain, the clientelist structures organized around political, military and religious power, and even the tell-tale social dynamics organized around the infamous Inquisition until the early nineteenth century.

Specifically, early forms of identification in Spain can be traced back to the sixteenth century. In response to the country's eight-century Islamic "occupation," King Felipe II resorted to the myth of a pure Christianity – "a new vein of humanist historiography conveniently occluded Spain's Moorish past and touted an unchanging 'Gothic' nation that stretched back to pre-Roman times" (Fuchs 2003: 1). The State and the Church were subsequently to define the boundaries of Spanish identity. They excluded the descendants of Moors and Jews from positions of power in civil and religious institutions, through the *estatutos de limpieza de sange* (blood purity certificates), and implemented a series of laws against Islamic cultural practices which culminated in the expulsion of the *moriscos* between 1609 and 1614.

It was the fact that many of the "converted" to Christianity decided to flee to the recently discovered Americas that led to the creation of the first identity documents – *cédulas* – which were only given to Christian descendants with at least four generations of "clean blood" (Goldberg 1981: 183). The *cédulas* were mainly issued to sailors who travelled back and forth from the new continent, and served as the official document to verify individual identity and the right to travel (Caballero and Izeddin 2004).

A document to establish identity within Spain, however, only emerged 200 years later, parallel to the development of the Kingdom's police, *Policía General del Reino*, in 1824, and the creation of the first "registry of citizens" with data such as age, sex, status, profession and nature of the person (Caballero and Izeddin 2004). This identity card, however, was not compulsory and provided little value in terms of identification, as it did not include a picture (see Figure 9.1). This sort of internal passport was abolished in 1854 and substituted by a *cédula de vecindad* – a document issued to registered heads of family only and

necessarily not only to travel, but also to sign and validate public and private contracts or access the property registry. Similar to its predecessor, this document was intended more as a means of ensuring the payment of taxes than as a tool for identification, as it only included the holder's name, address and signature (Zejalbo Martín 2007).

9.3 Surveillance and identification under Franco

In the immediate post-civil war years, after 1939, Francoism had to consolidate its victory in a country where the elections before the *alzamiento* (military uprising) in early 1936 had given the majority to the progressive and revolutionary forces of the Popular Front. Even though more than half a million people were killed during the war, and approximately 400,000 Republicans (Casanova 2007) were forced into exile, the need to *purge* the country of reds, communists, separatists and freemasons was seen as the main task of the new regime. In a country where most of the population lived in rural areas[3] and power was organized locally, that meant establishing local networks of power and control, structured around the institutions controlled by or aligned with the regime – the Church, the unelected City Councils, the Falange[4] and the Guardia Civil.

From as early as 1937, therefore, all documents on the activities of the "enemies of the Homeland" were catalogued. A Delegación Nacional de Asuntos Especiales (National Delegation for Special Matters) was set up to "compile all documents related to the sects and their activities … in order to organize and classify them in an Archive that should allow us to know, expose and punish the enemies of the Homeland." These documents and the dossiers on individuals were used in the many special courts set up under the dictatorship (ordinary military courts, The Courts on Political Responsibilities, the Courts for the Purging of the Civil Service and the Special Court for the Repression of Communism and Freemasonry), pursuing the objectives of the *Causa General* (Common Cause) – to process "all criminal activity committed in the national territory during the red domination."

This was also the period when the idea to develop a National Identification Document (DNI, in its initials in Spanish), which several governments had been attempting since the mid-nineteenth century, was rescued (Marín Corbera 2008) in an attempt to create a "card of cards" that could be issued at the national level and include personal data such as fingerprints, "military situation, ability to drive, membership in associations of public interest, whether one was a civil servant and the like."[6] However, it took 17 years for the project to become a reality. During that time, surveillance and control operated at different levels. The victory of the regime was often used to settle personal disputes, and many were faced with interrogations and judicial processes in relation to their political activities and "moral" behavior.

In a departure from state-centered understandings of the dynamics of social control, which tend to understand control as a phenomenon linked to some kind of (political or criminal) violation of the Establishment, the relationship between

Identity Leaflet 1824

Cédula Personal 1931

Cédula Personal 1937

Cédula Personal 1941

National Identity Card 1951-1961

National Identity Card 1962-1965

National Identity Card 1981-1985

National Identity Card 1990

Figure 9.1 Examples of Spanish identification documents.[5]

the Catholic Church and Francoism meant that in Spain deviance was not only political, ideological or criminal, but also *moral*. Local priests, councillors, Falange members and, later, members of the Guardia Civil were asked by the Courts to send reports and answer queries for information on the activities of virtually everyone – a task which, with certain exceptions, most fulfilled enthusiastically. In this daily surveillance, the everyday presence of Catholic liturgy, as well as the special role of the Church in a "National-Catholic" regime, meant that local priests, especially in rural areas, played an essential role. Often they were the ones who issued the "certificates of adherence to the national movement" that were necessary for myriad daily tasks and which were based on "good behavior" – understood as following mainly Catholic rituals and principles. Going to church, and having gone to church before 1939, was one of the best defense arguments one could use when faced with an investigation.

Once consolidated, Francoism institutionalized repression, social control and surveillance through the Court on Public Order (TOP, in its initials in Spanish), which took charge of all the special courts and jurisdictions of the war and post-war period, and the Socio-Political Brigade, which, together with the Guardia Civil, was responsible for the political repression until the 1970s. Torture and illegal detention were the norm, as well as wiretapping, tracking, postal interception, tailing and surveillance, with or without legal authorization. In urban areas it was the armed police that led the repression, but in rural areas and borders it was the Guardia Civil which, after an initial fall-out with the *Movimiento*, became one of its more recognizable faces. In addition, the regime created the Delegación Nacional de Servicios Documentales (National Delegation of Documentary Services) in 1944, with a mandate to gather and store information on people's political past, military and social situation and any secret affiliation they might have (Díaz Fernández 2005: 121).

In this scenario, the possibility of imposing ownership of an ID on every citizen was seen as a huge step forward in terms of limiting people's ability to circumvent the system. In 1951, the national identity card began to be issued to the population. The dictator himself was given the DNI number 1. Numbers two and three were given to his wife and daughter. Numbers 4 to 9 were never used and numbers 10 to 99 were reserved for the Royal Family (Caballero and Izeddin 2004). After this initial distribution among the elite, the next group forced to hold a DNI were prisoners and those under house arrest. Second were males with business commitments, making them change residence frequently. Third were males living in cities of more than 100,000 inhabitants. The national identity card was later given to males living in cities with populations of between 25,000 and 100,000. Women with work responsibilities that required traveling came next, and so on, until everybody over 16 years of age was supposed to have one.

By 1955, all Spanish citizens were required, by law, to have a DNI. As some authors have noted, though, the authorities were still insisting on this point as late as 1962, showing that there was at least some resistance or bureaucratic problems that made its distribution less than smooth (Marín Corbera 2008). After this date, the DNI became compulsory if one wanted to get a work contract

or access food rations. Soon, a market of illegal cards flourished, run by local party bureaucrats (Richards 1998: 155). This was useful for several reasons, one of them related to the fact that Franco's surveillance system established a clear division between "winners" and "losers," and subjected the latter to increased control and repression (Fàbregas and Guillén 2007: 285). Having access to an illegal card meant that one could falsify one's identity (and hide political affiliation or other pieces of personal information). The national identity card, therefore, was also a physical representation of domination and regulation.

In the 1960s things began to change, and students and trade unionists replaced communists and freemasons as the main public enemy. International developments, local social and economic processes and a new generation of political actors linked to workplace struggles, neighborhood associations and universities, as well as the birth of the terrorist organization Euskadi ta Askatasuna (ETA) in 1968 as an armed opposition to the regime gave rise to a new landscape. From then on, the TOP was to prosecute not only political activities, but also social activism. Even the churches, that for so long had been a daily reminder of the power of the regime, now started to become spaces in which to host clandestine meetings. During this new period, priests themselves became the object of surveillance (Barrachina Lisón 2001).

In order to suppress the emerging and illegal protests of workers, journalists, feminist, gays and other groups, the police's presence in the streets was increased and a special intelligence unit, the Servicio Central de Documentación ((SECED), Central Documentation Service), was created in 1972 to deal initially with the crisis in the universities, but which later became the current National Intelligence Center (CNI, in its initials in Spanish). The SECED created the first computerized register of people and their activities, extending control, for the first time, to areas and activities not strictly political, but also related to trade union activity, student activism, and "religious and intellectual" deviance (Alcalde 2008).

9.4 Surveillance and identification after Franco

When Franco died in 1975, Spain started a *transition* to democracy which lasted for eight years, until the 1982 elections were won by the Socialist Party (PSOE). Some of the reforms implemented during this period, such as the abolition of the TOP, the legal reform and the reform of the police system, started the process to normalize the state response to dissent and criminal activities. Moreover, the 1978 Constitution proclaimed Spain to be a non-denominational state.

However, in order to gain understanding of a particular regime's transition to democracy, it is important to contextualize the constraints faced by the actors involved, as this has implications for the democracy that is to follow. Transition processes define the amount of responsibilities that will be borne by those responsible for any crimes committed during a dictatorship. The type of transition is thus key in determining and understanding its outcomes. Fuentes (2005) identifies three transition models – imposition, pact and reform. When a society

transitions to democracy by imposition, "ruling sectors define unilaterally the conditions of a given transition." When a transition occurs through a pact, "there is a compromise on the basis of mutual guarantees to respect certain vital interests of both the governing regime and the leaders of the opposition." When transitions are guided by reform, as were those brought about by mass mobilization from below, a compromised outcome is reached without resorting to violence (Fuentes 2005: 34).

In Spain, the transition from authoritarian rule to democracy was the product of a series of negotiations, and the outcome was a break with the dictatorship in exchange for a "high degree of formal respect for the legality of Franco's political system" (Maravall and Santamaría 1986: 73). The weakness of the (illegal) anti-fascist opposition and of the popular classes, which had been severely punished throughout the period of authoritarian rule, meant that this was perhaps the only transition possible.

The Constitution of 1978 sealed a pact by which none of the "political leaders, members of the military, judges or police forces responsible for the atrocities committed during the war and the period of the dictatorship" were asked to assume any responsibility (Fàbregas and Guillén 2007: 284). The police system and the judiciary were reformed, but the members of the abolished sections were redistributed in the new departments (ibid.: 633) and the institutions were expected to follow a process of self-democratization whereby they would align, over time, with broader changes taking place at the heart of the social and political system.

In this context, Spain's entry into the European Union coincided with the first law regulating police forces – in 1986, the Organic Law[7] 2/86 on the Police and Security Forces (Fuerzas y Cuerpos de Seguridad) merged the Cuerpo Nacional de Policía (a police corps of military character) and the Cuerpo Superior de Policía (a police corps of civilian character) to create the Cuerpo Nacional de Policía – a civilian police force. This was an important stepping stone in Spain's democratization process, as it broke the military character of the police. However, the process of police democratization was still far from complete, as the Guardia Civil remained a military force and was granted custody of rural areas and border crossings.

Several groups raised their voices against some of the new legislation, warning, for instance, about the new Community Safety Law (1992) and the scope for discretionality it allowed. What became known as the "kick-on-the-door law" allowed the police forces to enter private residences without a court order, gave them the right to search personal belongings, to stop and search people, and to arrest those unable to provide valid proof of identity (a DNI). The lack of effective court control, both before and after, and the ability to impose fines for non-criminal activities potentially leading to the alteration of public order were the object of a widespread campaign, and some of the prerogatives were repealed by subsequent court rulings. The essence of the Law, however, is still in force today, and, as a product of this and other criminal law reforms the prison population of Spain increased by 250 percent between 1980 and 1994 (Alaminos and Peñalva 2008).[8]

9.5 Spain's electornic national identity card (DNI-e)

Since its origins, the Spanish ID-Card was a paper-based document including a fingerprint (until 1990) and a series of personal data, such as the holder's name, address, date of birth, parents' first names and a personal eight-digit number. Some of the seven models used between 1944 and 2006 eliminated references to the sex of the holder, or included blood type, profession and marital status (see Table 9.1).

In 2006, Spain's Cuerpo Nacional de Policía began to distribute the electronic national identity card (DNI-e). As of November 2011, more than 25 million Spanish citizens hold a DNI-e, making it one of the most widely distributed and used electronic IDs in the world.

The Spanish electronic national identity card was first mentioned in official documents in 2001, when the Ministry of the Interior announced that the first DNI-e would be issued by late 2003.[9] By August 2003, the Chief IT Officer of the DGP confirmed that although delayed, the DNI-e would be distributed in a pilot project in Ávila, a province in central Spain, by the end of the first quarter of 2004.[10] By October 2004, still with no issued cards, the government made the official statement that the DNI-e would be available at the beginning of 2005 in all major cities in Spain, as part of a larger *Plan Conecta* to facilitate the relationship between citizens and the administration using information and communication technologies, and that it would be fully implemented by 2014.[11] On December 23 of that same year, the government created a Coordinating Committee for the deployment of the DNI-e, and a Technical Commission to support its activities. In the end, the last non-electronic identity card was issued in 2008.

Table 9.1 Historical development of the Spanish national identity card

Year	*Information on the card*
1951	Fingerprint, photograph, mother and father's name, sex, profession, employment, social position, and signature of the director of the expediting agency. The imperial eagle of Franco's regime is marked on the card.
1962	Civil status and blood type of the individual is added to the card, sex of the citizen is removed from the card. The rest remains the same.
1965	All the information remains the same except for the signature of the director of the expediting agency, which is removed.
1981	The imperial agency is replaced by the constitutional shield, the social categories are removed and the sex of the citizen is reintroduced.
1985	The profession, civil status and blood type are removed. The rest remains the same.
1991	The fingerprint is removed from the card, although it remains in a database designed to store information relating to the national identity card.
2006	The new electronic national identity card is launched and is currently being implemented throughout the Spanish territory.

The technical office of the DNIe is headquartered in the Data Processing Center of the Directorate General of the Police (DGP) in the town of El Escorial, close to Madrid. It is from this office that the police coordinate the development of applications and services related to the document. The office includes technical personnel from the DGP and personnel from other ministerial departments. It is from these headquarters that the DGP has coordinated with other organizations to overcome some of the hurdles in the development and implementation of the project. The closest partner to the DGP during the development phase was the *Fabrica Nacional de Moneda y Timbre* (FNMTRCM, the Royal Spanish Mint), which took responsibility for the design and production of the document and supporting infrastructure. For the coordination of projects related to the DNIe, the DGP also counted on technical assistance from *Ingenieria de Sistemas para la Defensa de España S.A.* (ISDEFE), a Spanish public company created in 1985 to provide technical engineering support and consulting services in new technologies for the defense and civilian sectors.

Throughout this period, politicians and members of the government praised the benefits of the new identity card. In 2003, the chief IT officer for the police announced that the DNI-e offered Spain a competitive advantage in respect of other countries lacking such a document, as "nobody can ignore 29 million people that have the ability to identify themselves and sign through the internet."[12] In 2004, the Minister of the Interior emphasized that the DNI-e offered "unquestionable advantages" in guaranteeing security, and added that the electronic identity card carved the way towards the information society by putting Spain at the forefront of electronic commerce in the European Union.[13]

On a similar note, in 2005 the government's vice-president announced that the main objective of the DNIe was "to make the life of Spanish citizens easier," referring to the electronic card as a tool to guarantee the security, confidentiality and integrity of citizens using the internet. She also commented on the possibility of doing online transactions.[14] In April 2006, the Sub-secretary of the Ministry of the Interior praised the DNI-e as the key to solving the security–privacy dichotomy.[15] Two years later, she added that the main objective of the document was to bring the old processes of identification and signature into the digital world.[16]

The praise received for the document shows that, similar to other countries, the stated goals of the introduction of the electronic identity card are multiple and shifting, and tend to overestimate the possibilities of the technologies and their usefulness in everyday life (Schneier 2003). It is true, however, that a lot of effort went into the security specifications of the Spanish DNI-e.

In the development and implementation of the DNI-e, most funds were allocated to the private sector. During the first phase of the project, when the basic components were developed, the state paid 11,982,000€. Simultaneously, 352,785€ were awarded to ISDEFE for its technical assistance in coordinating the groups involved. In preparation for the national implementation phase, the DGP invested 2,833,986€ adapting the DNI-e issuing offices, and 1,089,747€ in buying the necessary technological equipment.[17] In 2004 the Ministry of the

Interior declared that the initial 17,530,000€ would be part of a total 100 million euros to be spent over four years to finalize the implementation of the DNI-e.[18] However, in 2006 the government released official estimates which placed the total cost of the development and implementation of the DNI-e at 314 million euros. Of these, 219 million were destined for technical development – with 145 million going to the FNMT-RCM for the production of the cryptographic cards.[19] By 2008, the Sub-secretary of the Ministry of the Interior, at an appearance before the Commission for the Information Society, stated that the remaining 75 million euros would be allocated to different initiatives until 2009.[20] From this budget, the Ministry for Industry, Tourism and Commerce offered grants and funds to stimulate companies to adopt the DNI-e-based services. Parallel to the funds and grants, the government, in cooperation with representatives from numerous industrial sectors, also organized trade shows and conferences designed to promote the benefits of the DNI-e.[21]

Today's DNI-e has multiple uses that were not available with the non-electronic version – it allows a secure identification method between public administration and citizens, financial institutions and their clients, it makes electronic billing possible, it allows citizens to create and use an electronic alternative to the handwritten signature, it enables secure wireless communication, etc. In the future, it is expected to provide "on-the-spot" multimedia banking services through terrestrial digital television, mobile phone "instant banking," remote contract signing and attendance at meetings through wireless communications, email identification, electronic voting, control of workplace presence and absence, identification of people trying to access age-specific services such as tobacco machines, etc.[22]

In its current version, the DNI-e includes two pieces of biometric data – a picture and a fingerprint compressed using the algorithm Wavelet Scalar Quantization (WSQ) and stored in the microchip. It also includes the holder's signature. The microchip has a storage capacity of 32KB and includes a components certificate, an authentication certificate and a signature certificate. The information stored in the microchip is divided into three areas with three levels of access security – a "public" area that can be read without restrictions, containing the certificates from the provider and the components; and a "private" area that can only be used by the holder with a Personal Identification Number, containing the digital signature. Finally, a "security" area that can be accessed by the holder only at authorized access points, which contains the original picture, signature and data included in the ID. The chip also includes other information, as set out in Figure 9.2.

Today, the Spanish electronic national identity card offers tangible advantages to many citizens, businesses and the state. It offers its holders the possibility to sign electronically and to identify themselves digitally. It also provides both the government and citizens with the opportunity to interact online through the use of e-administration, and offers businesses innovative ways of interacting with customers and service providers. Furthermore, through the international interoperability initiatives being developed in collaboration with some other

Figure 9.2 Physical security measures of the DNIe.[23]

countries – such as the US, UK, France and Sweden to name a few – the DNI-e system has gained credibility as a tool designed for furthering democratic principles in the electronic age.

However, there are several issues that deserve a further look: specifically, the lack of official response and debate over the problems and failures of the DNI-e. The most obvious shortcoming encountered in the process of DNI-e implementation is the low level of actual use of the electronic possibilities of the DNI-e. According to the report *eEspaña 2011* by the Fundación Orange, only 4.7 percent of the Spanish population uses the electronic ID to relate to public bodies (Gimeno 2011). Other sources mention that only 0.8 percent of the requests to renew the identification card are due to the holder's interest in having access to its electronic functionalities.

This is in part due to the fact that the law states that the use of the authentication and signature capabilities of the electronic ID is voluntary. But users have

identified other reasons. First, the DNI-e cannot be used without a DNI-e reader, and while these were distributed for free at some point, they now have to be purchased independently (at a cost of approximately 20 euros) before downloading the appropriate software. Second, it is often the case that the electronic "offices" cannot be reached at the first try. As official spokespersons admit, "bottlenecks" are common, and each failed attempt requires that the whole system and the browser be restarted. Third, users report a constant pop-up of security alerts and requests to re-enter their personal identification number. This means that it is fairly easy to type it incorrectly three times and therefore be blocked by the system – which requires a physical visit to an authorized DNI-e office.[24]

Five years since its launch, therefore, the DNI-e continues to be used mainly as the old-fashioned ID – as a proof of identity on the basis of a name and a picture.

9.6 Between awareness and consent: a history of forgetting?

Taking into account that the Spanish electronic identity card has been introduced at the same time when countries like the UK rejected similar government initiatives due to their control capabilities, it is important to put the development and implementation of the Spanish ID into perspective and in relation to both historical and broader processes.

The fact that the Spanish ID was imposed during the dictatorship meant that by the period of the transition to democracy most citizens had normalized its existence, and its constant use in everyday life is hardly ever challenged. In Spain, the DNI is necessary in all dealings with the state (at all its levels), financial institutions and civil institutions, such as schools (in order to register, get grades, etc.), town halls, etc. Beyond the sphere of official identification, however, the DNI has become a necessary document to carry out minor day-to-day activities such as paying with a credit card, registering to attend a gym, accessing public buildings, registering for loyalty card schemes and myriad other things.

In its early days, consent was not an issue. The DNI-e became progressively obligatory for all Spanish citizens. The awareness of its control functions could then lead to trying to get a false ID or manipulating one's own document – but resistance to its implementation was not a possibility under a dictatorship.

The implementation of the DNI-e, however, was promoted in a completely different historical context, and after 30 years of democratic rule. Resistance could have been possible, but maybe by 2008 the DNI had become such a part of the daily life of Spaniards that life without an identity card seems not only impossible, but also problematic – how would one go about their daily chores without one? Once implemented, the possibility of its disappearance raises questions of comfort and alternatives.

The low level of uptake of the electronic capabilities of the DNI-e is however a tentative indicator of society's low level of enthusiasm for the identity card. Indeed, Spaniards have so far showed low levels of support for other

"surveillance" initiatives such as closed-circuit television (CCTV) and fidelity cards. In the case of CCTV, the level of proliferation of cameras in Spain is much lower than in most European countries (Galdon Clavell *et al.* 2012). In the case of fidelity cards, a 2004 study showed that the level of adoption, possession and use of such marketing mechanisms is lower than in countries such as the US, Germany, The Netherlands and the UK.

A close look at the history of the Spanish ID shows that the current acceptance of the existence and use of an ID-Card says more about the country's history and political system than about people's quiet acceptance of social control of surveillance. While it is quite possible that people have forgotten about the authoritarian origin of the DNI, and are unaware of the political uses and risks of an identity card, the unquestioned uptake of the ID-Card is not matched by an unquestioned acceptance of the surveillance society (Lyon 2001) and other control mechanisms. Not yet, at least.

Notes

1 For more information on this, see other chapters in this volume.
2 For a general history of this period, see e.g. Carr 2001.
3 In 1930, only ten Spanish cities had more than 100,000 inhabitants (*Atlas Histórico de España*).
4 *Falange Española*, or *El Movimiento*, was the social organization of Francoism.
5 Data for Figure 9.1 was obtained from Espinosacerrato.blogspot.com.es (May 5, 2010), Historia del Documento Nacional de Identidad (DNI): http://espinosacerrato.blogspot.com.es/2010/05/historia-del-documento-nacional-de.html.
6 Decree to create the Information Service at the Ministry of the Interior, April 5, 1938.
7 In the Spanish legal framework, constitutional matters relating to fundamental rights and freedoms are regulated by organic laws, which require a parliamentary debate and an absolute majority to be approved.
8 Spain is today the EU-15 country with a higher prison population, with a rate of 160 inmates per 100,000 inhabitants (World Prison Population List, 8th edition). Available online at www.kcl.ac.uk/depsta/law/research/icps/downloads/wppl-8th_41.pdf.
9 Baquía (July 25, 2001), El DNI electrónico será realidad en 2003: www.baquia.com/noticia/relacionada/4296/1/-el-dni-electronico-sera-realidad-en-2003/.
10 ElMundo.es (August 29, 2003), El primer DNI electrónico se expedirá en Ávila en 2004: www.elmundo.es/navegante/2003/08/29/esociedad/1062143456.html.
11 ElMundo.es (October 1, 2004), El DNI electrónico se implantará en España a comienzos de 2005: www.elmundo.es/navegante/2004/09/30/esociedad/1096546101.html.
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15 Trámite parlamentario y municipal, no. 95 (April 2006): www.asambleaex.es/verrevista-119.
16 Diariojuridico.com (November 11, 2008), Fase final del desarrollo del DNI electrónico: www.diariojuridico.com/noticias/fase-final-del-desarrollo-del-dni-electronico.html.

17 Informativos.net (January 9, 2006), Comienza La Implantación Progresiva Del Dni Electrónico En España: http://informativos.net/actualidad/comienza-la-implantacion-progresiva-del-dnielectronico-en-espana_46004.aspx.
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20 Diariojuridico.com (November 11, 2008), Fase final del desarrollo del DNI electrónico: www.diariojuridico.com/noticias/fase-final-del-desarrollo-del-dni-electronico.html.
21 Asimelec.es (May 22, 2008), II Congreso de DNI Electrónico e identidad digital: www.asimelec.es/projects/eid/home-eid.aspx.
22 Information provided by the Chief Inspector of IT of the National Police in February 2009.
23 Data for Figure 9.2 obtained from Eleconomista.es (August 29, 2006), Telefónica e Indra se adjudican un nuevo contrato en el proyecto de DNI electrónico. www.eleconomista.es/interstitial/volver/halconabril/empresas-finanzas/noticias/59782/08/06/Telefonica-e-Indra-se-adjudican-un-nuevo-contrato-en-el-proyecto-de-DNI-electronico.html.
24 For a detailed account of a similar experience, see 'La Pesadilla de utilizar el DNI electrónico'. Available at: www.diariodenavarra.es/20110220/culturaysociedad/la-pesadilla-utilizar-dni-electronico.html?not=2011022001465965&dia=20110220&seccion=culturaysociedad&seccion2=tecnologia.

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10 Policy windows for surveillance

The phased introduction of the identification card in the Netherlands since the early twentieth century

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10.1 Introduction

Travelling with a passport, showing a document for identification, and supplying personal information to gain access to governmental services – we easily take these for granted. Identification (ID) cards of all kinds have become a part of our life and are part and parcel of governmental, non-governmental and private bureaucracies (Caplan and Torpey 2001; Lyon 2009). At the same time ID-Cards are a contested subject of fierce controversies and sometimes heated political debates (Khan 2006; Bennett and Lyon 2008). Advocates of ID-Cards argue that they are the perfect instrument for law and order measures and can protect national borders against unwanted visitors and terrorists. They are indispensable documents in identifying a person who claims a particular identity. According to them, a society in which a person cannot prove to be a particular individual is vulnerable to internal and external threats. Opponents point out that it is the privacy of the individual citizen that is at stake and claim that the cards are frequently abused by governmental officials. For them, ID-Cards are instruments for the monitoring of individuals' behavior and activities and, as such, visible exponents of increasing surveillance.

Given the debate between proponents and opponents, one might wonder how and why in current (Western) societies identification cards of all kinds have been introduced. When we look back in recent history we cannot fail to notice the increasing sophistication of the instrument, both with regard to the technique of the ID-Cards and with regard to administrative conditions like the introduction of databases. However, this is only one part of the story. Told this way, one might get the impression that the introduction and increase of ID-Card techniques has been an autonomous, inevitable development that took place independently and in isolation from the societal debate. Yet, conversely, the introduction and further perfection of the ID-Card occurred intermittently. Advocates of the card waited for the "right moment" – or for "policy windows" as Kingdon (1995) would call them – to push their agenda further.

Higgs, who wrote a groundbreaking book on the rise of the information state in England (2004), convincingly argues that Big Brother, the state's repressive

face, may be seen as a major driver behind increasing surveillance. Big Brother tools and instruments, such as the ID-Card, emerge on the agenda once there is a security crisis. Higgs' main argument is that during crises bigger problems than the privacy of individual citizens are at stake. Yet, Higgs also shows that, once the crisis is over, such tools are abolished again. Soft Sister – the Welfare State – on the other hand, is a driving force that has much more lasting effects. The Welfare State, the concept of government in which the state plays a key role in the well-being of its citizens, requests the collection of huge amounts of (personal) data in combination with effective mechanisms of control. After all, the improper use of social services will not only lead to a situation of high costs but will also erode solidarity among citizens. For Soft Sister, therefore, it is important to put instruments in place that can identify individuals who call on the Welfare State's services. ID-Cards are the perfect instruments to accomplish this goal.

This chapter will present the long history of ID-Cards in use in the Netherlands. What were the decisive moments and the driving forces (Wagenaar and Boersma 2008) behind the ID-Cards' development and implementation, what was the role of Big Brother and Soft Sister, and what was the role of different (State) actors in this respect? Did crises indeed provide "policy windows" for the introduction of ID-Cards, and were they abolished once peace was restored again? In what follows, we will first provide a theoretical approach with which we can better understand the ID-Card's history in the Netherlands. Next, we will present and analyze two policy windows in the recent history of the Dutch Welfare State. In the discussion, we will argue how and why the ID-Card system in the Netherlands has been able to develop the way it did.

10.2 The phased introduction of ID-Cards in the Netherlands: a theoretical approach

Identification cards were not introduced into the Netherlands overnight. Instead, (state) actors waited for the right moment to put the ID-Card on the political agenda (again) and create coalitions to implement their – often already existing – ideas and solutions. In this part of the chapter, we will present a framework with which to understand why and how certain policies appear on the political agenda. Following the "garbage can model" that disconnects problems, solutions and decisions (Cohen *et al.* 1972; Olsen 2001), we argue that it is naïve to think that the decision-making process behind the ID-Card followed a unilinear, rational path from the asset of problems to the solution, since this would imply that the problems were well defined from the start, agreed upon, and remained static over the course of many decades. This rational view is termed the "synoptic" or the "rational-comprehensive" model of planning (Hudson *et al.* 1979). It implies that actors fully analyze a situation, establish their goals, formulate courses of action, and compare and evaluate the consequences of the actions.

Yet, the synoptic view tends to overlook the debates that took place, takes historical actors out of their contexts, and fails to define what made sense to

them. By using the garbage can model, one will be better able to open the black box of (political) decision-making and understand the mix of problems and solutions. It enables us to dig deeper into the agenda-setting process and unravel the debates. In addition, it allows us to pay attention to "moments of silence" during which the political climate was unfavorable for the actors to further advocate or implement their ideas. The garbage can model is about decision-makers, problems and choices, and addresses: "the collection of choices looking for problems, issues and feelings looking for decision situations in which they might be aired, solutions looking for issues to which they might be the answer, and decision makers looking for work" (Cohen *et al.* 1972: 1). The model defines problem preferences, proposed but unclear technologies and fluid participation; most importantly, it emphasizes that these three elements are not satisfied at the same time (Gibbons 2003). For example, the problem preference refers to the idea that not all political actors have the preference ordering of the kind assumed in, for instance, rational choice theory. It also addresses the fact that the technologies are not understood by all the actors in the same manner. Finally, audiences and key actors will change over time, and the garbage can allows for this. Yet, at a certain point in time the decision-maker and/or problem will become attached to a particular solution, which then seems to be the only one. The question is how we, in retrospect, can recognize such particular points in time.

Kingdon (1995), in his attempt to explore how ideas end up on the political agenda, builds on the garbage can model. He suggests that there are three separate streams in political decision-making: problems, politics and participants/solutions. When Kingdon refers to problems, he observes that there are sometimes simply "conditions out there" (Kingdon 1995: 206); for example, a particular event, like a deep crisis, or a disaster, that becomes a general concern. At such a time, as he points out, conditions can become problems. For Kingdon, problems are different from conditions, which are constant. A problem must be made manifest to be on a governmental agenda. He identifies conditions, such as a changing national mood, and crises that could influence agenda-setting, and he argues: "Conditions come to be defined as problems, and have a better chance of rising on the agenda, when we come to believe that we should do something to change them" (Kingdon 1995: 207). It implies that problem recognition is key to agenda-setting. In the second place, developments in the political realm, like the change of an administration, prove to be powerful agenda-setters. Finally, when Kingdon refers to political participants, he points out that political actors – most of the time visible actors, like elected officials, but sometimes also more hidden actors, like career bureaucrats – seek attention for particular solutions, often irrespective of the stream of problems.

Timing is an important factor for Kingdon to explain agenda-setting: an open policy window is the perfect opportunity for advocates to push a particular solution to the problem. The policy window is effectuated at times when the three otherwise separated streams are joined. Then clever entrepreneurs can use the momentum to push a certain policy through. The problem for them is that the windows are narrow, rarely opened, and can close again quickly. According to Kingdon, the windows will sometimes open quite predictably (for example, when

legislation asks for renewal) but sometimes quite unpredictably (for example, when a disaster occurs). This means that policy entrepreneurs have to be sensitive to opportunities and must act rapidly. They need to take advantage of these moments and also claim that their proposal is the ideal solution for the pressing problem, knowing that their opportunity may soon pass again. When that happens they may have to wait for a long time before the window will reopen.

In the remainder of this chapter we present two policy windows in the Dutch ID-Card history: the Second World War and the recent War on Terror after 9/11. We will show how policy entrepreneurs made clever use of their opportunities to push through their ideas and agendas.

10.3 Lentz and the war: ID-Cards in the Netherlands, 1925 to 1950

10.3.1 A solution looking for a problem

While during the First World War many European countries took steps in the field of registration and identification, the Netherlands did everything to remain neutral and did not implement registration and identification measures. It kept focusing on controlling the influx of aliens on the basis of the Aliens Act (Vreemdelingenwet) of 1849. Yet, in 1925, a few years after the war, the police asked for the introduction of ID-Cards for all persons residing in the Netherlands over the age of 16. A year later the Ministry of Justice (Ministerie van Justitie) spoke out in favor of the optional introduction of cheap ID-Cards. It would be wise, it said, when in laws, regulations and administrative provisions value would be attached to the card. Because ID-Cards and civil registers were closely linked, the State Secretary of the Home Office also stepped in. On September 1, 1928, a Commission for the Registration was founded. Its main task would be to advise on a new system of civil registration. From this Commission arose other commissions, including the Sub-commission on the ID-Card System (Roest 1989).

An important member of this Sub-commission was Jacobus Lambertus Lentz, then chief of the Department of Passports of the city of The Hague. In 1929 he joined the National Inspectorate of the Civil Registers, subordinated to the Home Office. As he had been doing research on civil registration since 1926 and had become quite an expert, he soon became its chief.[1]

In 1936 Lentz set in motion a complete reorganization of civil registration. All municipalities had to build up a new local register with a card for every citizen. On the front of the card the data of the resident were listed, on the back the data of the resident's wife and children. When someone moved to another municipality the card followed, while a copy of the card was stored in the municipality of departure. Soon all Dutch residents would be registered according to a uniform system. However, this did not mean that their identity in society was established. Lentz wanted to take this next step as soon as possible. He was not alone.

In 1938 the issue of identity cards became topical again. The State Secretary for the Defense ordered a rationing ID-Card on short turn to guarantee food

rationing in times of war or threat of war. The rationing office reacted quickly and sent a specimen to the Home Office. This department's senior officials felt neglected and they criticized the card as inferior. They proposed a general and high-quality ID-Card. Justice and Foreign Affairs were now approached as well. The State Secretary of Justice was still strongly in favor of obligatory ID-Cards, and on April 13, 1938 all the attorneys-general unanimously showed their commitment to such an introduction. The Foreign Office had no objection either.

The senior officials of the Home Office advised their State Secretary to hand out ID-Cards as soon as possible: "the conditions are currently very favorable." The cards would facilitate the enforcement of many laws, simplify the municipal administration and ease the task of the police and the judiciary. The ID-Cards could be made popular if they were provided at a low price and made useful in all areas of social life. Moreover, there was no time to lose because the printing of the rationing ID-Cards was scheduled for September 1938. Yet, the Home Office did not follow this advice.[2]

On October 12, 1938, an interdepartmental committee, chaired by senior official De Beaufort of Economic Affairs, was set up. It had to investigate not only the introduction of a rationing ID-Card but also the possibility of a combined card: an ID-Card and a rationing card in one. The committee consisted of representatives of the State Departments of Economic Affairs, Justice, the Home Office, Defense, and of course of Lentz – Head of the National Inspectorate of the Civil Registers. Yet, despite all this support, the policy window appeared to be closing again: two weeks earlier Chamberlain had brought about his "peace in our time," and the threat of war seemed reduced.[3]

There were more difficulties. From the start, each department had tried to make another department responsible for the introduction of ID-Cards. Most departments emphasized that rationing was a case for the State Secretary of Economic Affairs, which is why they believed this department would have to shoulder most of the financial burden. But Economic Affairs only wanted ID-Cards for food rationing and showed no interest in upgrading this type of ID-Card to a general ID-Card. Even the Home Office now suddenly pretended to be hardly interested. Justice and Defense made it clear that they only wanted ID-Cards if these were to be made obligatory, and if they would be issued as soon as possible.[4] Lentz' calculation that obligatory ID-Cards would cost 200,000 guilders split the committee once again. Justice and Defense found the amount acceptable, the Home Office and Foreign Affairs did not, and Economic Affairs stated that it only attached "some importance" to an ID-Card.[5]

Although it must have been clear to everyone that facultative ID-Cards were in no way a serious alternative to obligatory cards, the former were nevertheless discussed over and over again. In 1939 Economic Affairs was in favor of an optional introduction at short notice, because a substantial amount of ID-Cards would already be distributed when a war broke out. Foreign Affairs believed that such an ID-Card could be used as a passport to Belgium and Luxembourg, while the Home Office suddenly voiced more doubts about an optional introduction. The Ministry declared that it was not a "service institution." The Department of

Justice simply gave a list of arguments in favor of an imperative implementation, which was a copy of the one Lentz had made a few years before, while Defense showed interest only in an obligatory ID-Card to facilitate conscription.

Meetings, memos and letters finally led to a report and the Commission spoke out in favor of an obligatory ID-Card. The back of the card should be left blank so that data relating to the military service and conscription could be filled in. The quality of the card should be such that there was maximum security against forgery. A second card could be attached to this ID-Card for the registration of the issue of rationing sheets; the committee was not in favor of a combined card. Aliens would receive a card of a different color. Furthermore, the committee had remarkable ideas about how to finance the project; aliens living in The Netherlands would have to pay for most of the costs.

When the Cabinet received the advice, it stated that it would discuss it. Yet, in reality it had already chosen a different option: a quick distribution of simple rationing ID-Cards without a photo. On August 25, 1939 these were printed (De Jong 1969–1991, Part V: 425). On March 4, 1940 the report of the committee was discussed by the Cabinet nonetheless. It decided not to introduce a general ID-Card, as it considered such a card, "which basically considers every citizen to be a potential criminal," at variance with Dutch tradition.

10.3.2 Invasion and occupation: the policy window

After the Netherlands had been occupied by German armed forces, the senior officers of the SD (*Sicherheitspolizei*: German Security Police) were displeased to discover that the Netherlands had no waterproof ID-Card. They immediately contacted the Secretary-General of the Justice Department – the department's highest ranking civil servant – and expressed their wish to have an ID-Card introduced as soon as possible. This Secretary-General then informed his colleague at the Home Office.[6] How did the two Secretaries-General react? Did they refer to the negative reaction the Dutch Cabinet had given a few months earlier? No: Justice referred to the recommendations of the report of the Commission-De Beaufort (in favor of an obligatory introduction), and the Secretary-General of the Home Office, Frederiks, wrote to his new German boss: "Naturally I have no objection to an obligation to carry an ID card at all times and to show this card on first request" (De Jong 1969–1991, Part V: 425).

The Germans left the implementation in the hands of the Secretary-General of the Home Office who passed it on to the National Inspectorate of the Civil Registers, meaning Lentz. Lentz had already designed several ID-Cards in the late 1930s, which is why he could quickly present a specimen. After the approval of the Chief of the German Secret Police in the Netherlands (*Befehlshaber der Sicherheitspolizei und des SD*), he was sent to Berlin to show the card to the specialists of the Reich. "The experts of the Security Police were stunned," wrote L. de Jong. "Lentz' ID card was significantly better than the German Kennkarte!" (De Jong 1969–1991, Part V: 425). Yet they were very disappointed to see that Lentz did not pay attention to a crucial element in their own plans: a

centralized card system where all the data of the Dutch population were concentrated, especially signature, photograph and fingerprint.[7]

From October 1, 1940 onward, every Dutch citizen over 15 years of age had to carry an ID-Card (Figure 10.1). For the time being a wide range of documents was accepted. Two weeks later the introduction of a general and obligatory ID-Card, called *Persoonsbewijs*, was announced. The card had a unique number that corresponded with the date of issue, and it proved that one was registered in the civil registration. An unbreakable link therefore existed between the ID-Card and the registration card. This close relationship stems from the essence of the Dutch registration as it had evolved since July 1936 (Lentz 1941: 57). Lentz, who finally saw the system that he had been advocating for so long realized, was delighted and relieved: "it may be assumed that under perfectly calm conditions the introduction of this identity card would have been delayed for a long time," he wrote (Lentz 1941: 10).

As mentioned earlier, the German authorities showed great interest in a centralized card system. Lentz fulfilled their every wish. He designed invitation

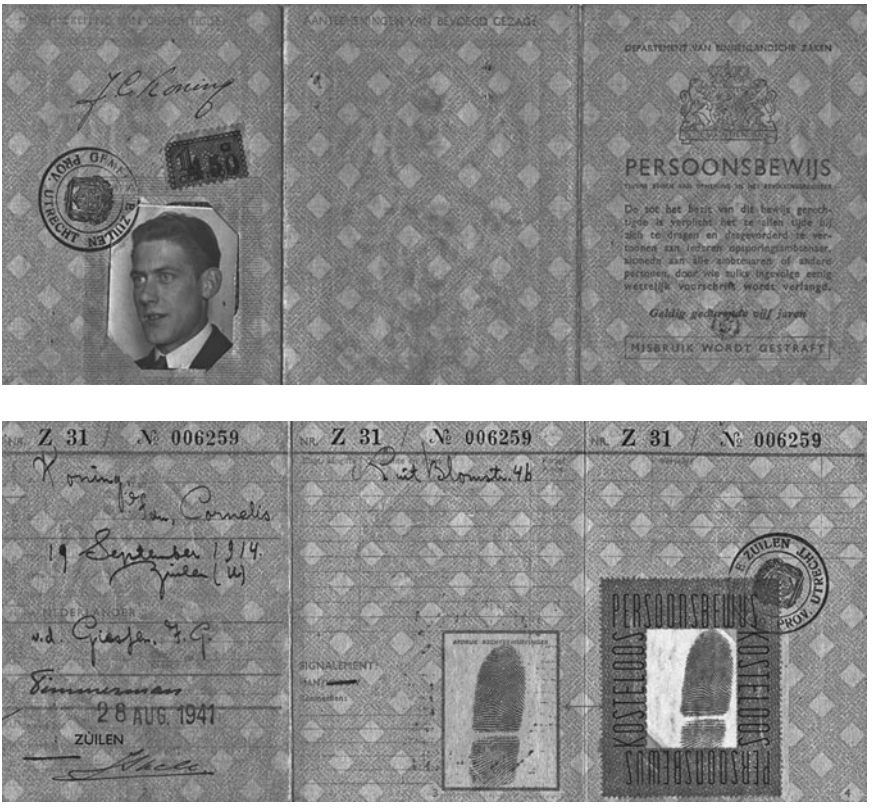

Figure 10.1 The Dutch ID-Card (*Persoonsbewijs*) in the Second World War.[8]

cards that had to be handed in after receiving an ID-Card at the Town Hall; both cards contained the same data. Each citizen was to provide two photos of which one photo was glued onto the ID-Card and stamped. The other photo was glued onto the invitation card that was taken in. Three fingerprints were placed: two on the new ID-Card and one on the invitation card. Finally, both cards were signed. And, as if this was not enough, an indication of the municipality (A1 for Aagtekerke to Z43 for Zijpe) and a number linked to the date of issue were added. Forgery thus became extremely difficult. The invitation cards were sent to the National Inspectorate of the Civil Registers to form a central card system with photos and fingerprints of the Dutch population, which was unique in Europe.[9] On January 12, 1942, Lentz wrote that the issue of ID-Cards in 1941 had taken place "without disturbances." All six million Dutch citizens now had an ID-Card, "except a very small number of people, who hadn't answered the call."[10]

In January 1941 the compulsory application of all Jews in the Netherlands was ordered and executed by the Dutch local administrations. Geographical maps were used to locate all Jews living in a particular town or city and, although the Germans demanded a *Judenprotokoll* (a separate card system for Jews), Lentz was able to avoid this by demonstrating how a tab could be put on top of each Jewish registration card.[11] On June 3, 1941, the Home Office informed the municipalities that the German authorities had ordered the ID-Cards for Jewish inhabitants to be stamped with a black capital J (Figure 10.2).

Figure 10.2 The Dutch ID-Card for Jewish inhabitants with a black capital 'J'.[12]

In the course of 1941, the National Inspectorate of the Civil Registers had been working at full speed. Millions of invitations had been checked and processed, and the entire Dutch population over the age of 15 years had been arranged alphabetically. A separate collection had been formed of the registration certificates of Jewish inhabitants and this would soon provide the basic information for the deportation lists.

10.3.3 The policy window closes again

In September 1944 the first Dutch village was liberated. It would take until June 10, 1945 to free the whole country. For a while, therefore, the Germans still held the north while south of the great rivers, in liberated territory, the Military Authority was in charge. It was subordinated to the Dutch State Secretary of War, which still resided in London. The Military Authority had almost unlimited powers to maintain order in the liberated areas.

Already during the war the Dutch authorities in London were informed that many population registers had been stolen or destroyed by resistance groups, and that ID-Cards and registration cards had been forged. For that reason, temporary ID-Cards – approved and designed to replace lost and forged cards – could not be printed and distributed until the situation was less chaotic. The Military Authority installed a Reconstruction Commission for the Civil Registers to deal with the reconstruction of the registers but also with the rationing cards and the temporary and even "provisional temporary" ID-Cards. This committee consisted of representatives of the Military Authority, the Central Rationing Office, the civil registers of Amsterdam, Rotterdam and The Hague, the National Inspectorate of the Civil Registers, and representatives of resistance groups.[13] The Military Authority immediately made it clear that they and the Allies were strongly in favor of maintaining ID-Cards. In the 1930s the discussion on general ID-Cards and rationing ID-Cards had been conducted against the background of, for the time being, a stable civil registration. Now the country was exhausted, and the registers were a mess. The people needed food and the essential necessities of life, so the issue of emergency rationing cards was extremely urgent. There was neither time for profound discussions, nor for normal action to solve practical problems.

On September 13, 1945, the State Secretary of the Home Office postponed the issue of temporary identity cards and ordered the municipalities to start the reconstruction of the civil registers in combination with the demand and supply of ration cards. Elections would be held in the spring of 1946. To keep the issue of ID-Cards going, a commission was set up once again to examine whether there was a reason to maintain the ID-Cards and, if so, to what extent their possession would be imperative and what data should be included. The committee was set up at the instigation of the National Security Agency. The committee's chairman was a senior official of the Home Office. The other members were the new Chief of the National Inspectorate of the Civil Registers as well as representatives of the Departments of Justice, Finance and the Home Office, and of the National Security Agency. The National Inspectorate of the Civil Registers

was busy supervising the reconstruction of the civil registers, but Justice and the BNV (Bureau of National Security[14]) focused on ID-Cards, so they soon took the lead. In November 1945 they were already looking at specimens of a new ID-Card and discussing technical details with specialized suppliers, just as Lentz had done five years earlier.[15]

Yet, in February 1946 the Home Office stated that almost all mayors and superintendents of police were opposed to obligatory ID-Cards. The short-term introduction of new ID-Cards had to be canceled. The Department of Justice was stunned, because recent surveys in circles of law enforcement had shown that 133 out of 150 respondents were in favor of maintaining the ID-Cards. A month later the committee presented a report. Was it true that ID-Cards were dangerous if the Netherlands would once again be occupied by a foreign power? The committee had studied the question and was "after careful consideration" of the opinion that "the benefits of such an ID are so large that the risk – the size of which is currently not identifiable – should be taken." Still, the Commission considered it unwise to proceed. There was at present too much of a forging mentality, the state apparatus was overburdened and the time was not yet ripe. Over time the Dutch people would come to accept the ID-Card, the Commission believed.

In the future there would be a growing demand for ID-Cards, which could be stimulated by sensible information and wise guidance but, for now, plans had to be aborted. Thus, on June 29, 1945, the obligation to carry and show an ID-Card was abolished and the issue of ID-Cards ceased. In November 1945 the State Secretary of Justice asked the Attorney General to order the police to stop summoning people who could not produce an ID-Card.

10.4 9/11, a political assassination and the Dutch ID-Card

10.4.1 Reopening the policy window

Because of the use that had been made of the ID-Card during the war, it took the Netherlands decades to reintroduce one, although at the time there were 16 countries in Europe with compulsory identification, and nearly all European countries already had a national ID-Card. The memory of the use the occupier had made of Lentz' ID-Card would prevent the reintroduction of such a document for decades. Each new attempt to (re)introduce a national ID-Card system would end in a debate about the traumatic German occupation. For this reason, Vedder *et al.* (2007) call Dutch society up until the 1980s a "privacy paradise." In cases where identification was really necessary, citizens could either use a passport, a travel document (*toeristenkaart* or *identiteitskaart B*, a travel document only valued for European countries), a municipal ID-Card (*gemeentelijke identiteitskaart*) or a driving license. Next to these ID-Cards, the Dutch national post company PTT issued its own post identity card for identification purposes.

This situation changed in 1994. A limited identification scheme was introduced and extended in 2005 but without a special national ID-Card. Instead, the

ID scheme was based on already existing documents such as the passport, the residence permit and the driving license.[16] In October 2001 a new wallet-sized ID-Card came into distribution to replace the travel document and the municipal ID-Card. Officially, the status of the ID-Card remained primarily that of a EU travel document.[17] Dutch citizens were not obliged to have a standardized ID-Card at their disposal for identification purposes within the Dutch borders until new identification laws would (re)introduce that obligation.

The reintroduction of a new identification scheme, however, remained a very controversial subject for a long time, although after the war, in 1951, the lobby for reintroduction had already begun anew. This time the lobby was mainly political, whereas before the war administrative forces were dominantly involved in the lobby process. Opposition was fierce. Even having a census led to prolonged resistance in 1971, which was the reason why the government eventually had to give up on the plan. Nonetheless, as a consequence of the abolishment of European border controls, new regulations for identification were on the way. In 1983 the State Secretary of Justice of the conservative liberal democrat party VVD – Frits Korthals Altes – started the discussion. He did so not by expressing the wish for maintaining cross-border control on migrants and foreigners, but by framing that for crime-fighting purposes everyone should be made to carry an ID-Card. In this way, he avoided controversy about the governmental decision by "just" giving his personal view on this. The Christian-democratic Party (CDA) adopted this idea and kept putting it on the political agenda. The Labor Party (PvdA) opposed the idea because of possible discrimination, but when it formed a coalition with the CDA in 1992, the PvdA had to give in. Now the CDA was successful in pushing a limited ID scheme through Parliament: the WID (Law on Identification). The main reasons given for this scheme were the abolishment of the European border controls, the detection of transnational crime and illegal immigration, and labor.

As geographic border control was no longer allowed under the Schengen agreements, the WID was also connected to other laws and regulations, such as the "law for linkage to legal residency" (in Dutch, *koppelingswet*) meant to control the residence permit of every person dealing with officials or semi-officials. For this purpose the *sofi-number* (social security tax file number) was printed on travel documents and driving licenses from 1996 onward. In 1992, the awareness of the growing number of asylum seekers already led to the decision not to issue sofi-numbers to persons without a residence permit. The WID of 1994 contained regulations for identification at the workplace, opening a bank account, dodging public transport fares, and for detecting illegal immigration. The fact that every employee was obliged to give a copy of his or her passport to the employer led to limited resistance. The protesters saw the new legislation as an instrument to exclude illegal residents from society and a step towards a surveillance society. Yet, they were not well organized enough to stop the reintroduction of new rules for identification. That is why, despite resistance, the "law for linkage to legal residency" came into force in 1998 (Holvast and Mosshammer 1993).

10.4.2 9/11, and the assassination of Pim Fortuyn: policy entrepreneurs joining the streams together

After 9/11, the CDA – at that time in the opposition – thought the time was ready for compulsory identification. It had already proposed an extension of the existing scheme in 1998 as a part of its party line, but at that time the proposal was not accepted. Now, however, the political climate had changed. On budget day (*Prinsjesdag*) 2001, just nine days after the 9/11 attacks, CDA spokesman Jaap de Hoop Scheffer used the opportunity to put his old wish for compulsory identification on the political agenda again. Meanwhile, Roger van Boxtel – State Secretary for the left-wing liberal democrats D66 – was responsible for developing a new, technologically advanced "model passport" and ID-Card containing a radio-frequency identification (RFID) chip for storing biometrical data. He promoted a new electronic ID-Card as well: the E-NIK for identification on the internet.

Only shortly before, Van Boxtel had not been in favor of a compulsory ID scheme to extend the power of police forces.Yet, two days after De Hoop Scheffer had started the debate Van Boxtel had changed his mind and had used this opportunity to promote the E-NIK. An ID scheme would be very convenient for citizens, he explained. Van Boxtel's idea was picked up by the VVD. A Member of the Dutch Parliament, Atzo Nicolai, strongly in favor of compulsory identification, proposed a "clever use" of the coming ID scheme by introducing a "service pass." This was a new kind of wallet-sized ID-Card, like the prototype "citizen service card" or E-NIK that was shown at an exposition of the national chip card platform in November 2000. It would contain a chip for biometrics and store information about the holder, for example, social security and medical records, as well as judicial files. In December 2003 – also in the context of this ID debate – Joop Wijn, MP for the CDA, launched his idea for a national fingerprint database. Wijn was impressed by the number of crimes solved by the use of the fingerprints of asylum seekers, so why not collect the fingerprints of all Dutch citizens? When citizens needed to renew their passports – everyone has to do so every five years – they would be asked to leave their fingerprints. This idea was controversial at the time, but it would impact the changes in the legislation on travel documents a few years later.

Due to the events of 9/11, the government coalition of PvdA and VVD put compulsory identification on the political agenda again, but it opted for an extension of already existing identification requirements in case of terrorist threats only. The situation would change dramatically, however, following the rise of the populist right-wing party LPF and the elections of 2002, when the CDA came to power again. Looking back, one could say that the year 2002 was a turning point in Dutch political history. The widespread dissatisfaction with the coalition of PvdA and VVD and the rising popularity of Pim Fortuyn – leader of the LPF – came to a climax when Fortuyn was shot by an animal rights activist a week before the elections. It was a single-person action, but public opinion blamed all parties on the left of the political spectrum. The words of one LPF

member typify the political climate at the time: "The bullet came from the left." It was exactly the left-wing parties that had shown most respect for privacy rights in the past, and which had until then successfully tempered the ID wishes of the others.

In September 2002 the new government coalition of CDA, VVD and LPF was formed, and State Secretary for Justice Donner drafted a law to introduce compulsory identification. It required all persons to permanently carry ID from the age of 12. Every police officer, including military police, every extraordinary law enforcement agent, and every police-related supervisor/watcher would be authorized to demand identification in the course of his or her duty. People unable to show a valid passport, driver's license or identity card on the spot would risk a maximum fine of 2.250 euros. No explanation and substantiation was given why the limited identification obligations already existing at that time would not suffice.

Donner sent his draft proposal to the Dutch Legal Bar Association, the Dutch Order of Lawyers, the Data Protection Authorities and the Youth Council.[18] All these bodies criticized Donner's proposal. According to the Data Protection Authorities it was ill considered. Article 8 of the European Treaty on Human Rights required a "pressing social need" for plans like Donner's, which was absent, as was a balance between the rights and duties of citizens and government. They pointed out that Donner had completely ignored the already existing ID regulations, as well as the criticism of the new proposals voiced during the past few years. Donner was therefore advised not to proceed with his new ID scheme, but, since all these authorities have only advisory power, he could ignore their criticism. In May 2003 the Cabinet agreed to Donner's proposal, and in December that same year it was discussed in Parliament, after which a few changes were made. The age limit had been raised to 14 years instead of 12, and the obligation to always carry ID (in Dutch, *draagplicht*) was dropped shortly before the debate. Donner explained that only a requirement to show valid ID (identification requirement, in Dutch, *toonplicht*) would be introduced. Yet, not following the requirement for identification would immediately be considered an offense against Article 447e of the criminal law code (*Wetboek van Strafrecht*) and a fine imposed of 50 euros for adults and 25 euros for adolescents under 16 years of age.[19]

The official reason for the new legislation was law enforcement, Donner explained. He was, as he pointed out, mainly concerned about the possibility of checking the ID of youngsters loitering in public places, of old people who had become unwell and needed help, of people walking their dogs in places where this was prohibited, of witnesses to accidents, and of people who had been present at disasters.[20] MP Andre Rouvoet summarized the reactions to the reasons Donner gave for introducing his plan in the following words: "These examples go into the direction of improper use." The only restriction for law enforcement officers would be that the use of their new power would solely be allowed within the course of their duty.

Due to the lack of clear regulation the identification requirement failed the fundamental test of foreseeability, which has been proven by praxis since the

extended law WU-ID came into force in January 2005. From the citizens' point of view there is no clear distinction between use and misuse and no legal protection against the identification requirement. Unsurprisingly, therefore, during the first months after its introduction, thousands of people were fined for not being able to prove their ID.

Two weeks before State Secretary Donner presented his ID plans, State Secretary Remkes – in a letter to Parliament of November 20, 2002 – announced the introduction of a new citizen service number.[21] Actually, this number was not new at all but was an upgraded version of the already existing sofi-number. The idea was to replace the municipal administration number (*GBA-nummer*) by the sofi-number. This was a proposal of the Commission for Identity Management and part of a plan for a more effective use of personal data and government databases. The letter was signed not only by Remkes, but also by State Secretary for Justice Donner, who had adopted the idea for data-sharing between financial institutions and local government proposed by the Commission for Data Sharing and Combating Terrorism. The essence of all these ideas is the use and linkage of the *sofi-number* on passport, travel ID-Card and/or driving license. Until then regulations about the use of the sofi-number had been unclear, but now they were laid down in the *Wet Burgerservicenummer* (Citizen Service Number Law) which came into force in 2007. Yet, even before this new law was passed by Parliament, State Secretary for Finance Zalm made efforts to give banks and other financial service providers access to the population register data behind the new citizen service number. Millions of citizens were summoned by their banks to be identified and have their passports scanned for the banks' databases.

In October 2001 a new model passport was issued. It was no longer personalized locally, by hand, at the town halls, but automatically, at one central place, by the producer: *Staatsdrukkerij Johan Enschede*. This would prevent forgeries and the stealing of not yet personalized documents. The new model was prepared to contain an RFID chip for storing personal details. Following the guideline for travel documents of the ICAO (the International Civil Aviation Organization) – prescribing an RFID chip with a photograph of the holder – the model with chip came into distribution in August 2006. The chip contained personal details, the sofi-number, a document number and a photograph of the holder in color, adapted to enable automatic face recognition. In 2009 two fingerprints were added, due to the EU guideline for travel documents.[22]

The influence of 9/11 on this European guideline is quite clear. In a letter to the European Commission of October 16, 2001, President Bush required close cooperation with the EU on passport control and visa issuing. In May 2003 Bush signed the U.S. Border Security and Visa Reform Act. It required all visitors – including Canadians and Europeans – to have biometric travel documents. In December 2004 the Civil Liberties Committee of the European Parliament held a session to give advice on the European Guideline for travel documents EG 2252/2004. The original draft followed the recommendations of the ICAO that, as a biometric feature, only a photograph or facial scan was required. But at the same time the EU Council of Ministers was in session in Luxembourg, behind

closed doors, under the presidency of the Netherlands. At the last moment it decided to change the guideline to add fingerprints. The European Parliament was told to accept the new guideline and to pass it as if it hadn't been changed. The EU Parliament did not accept this, but its advice was not binding; a lack of democracy that was strongly criticized. Yet, the decision had probably already been taken. According to the *Financial Times Deutschland*, German State Secretary Otto Schily had made an agreement with the US to add fingerprints to European passports beforehand.

On June 9, 2009, the Dutch Senate (*Eerste Kamer*) discussed the changed passport law for reorganization of the travel document register. Following the European guideline, adding two fingerprints of both index fingers was required, but the Netherlands had gone much further. Its changed passport law required two fingerprints on the document and four fingerprints in the digital travel document register (which was in line with the aforementioned idea of Joop Wijn for a fingerprint database). The intention was to store biometric data in a central database, which would be accessible 24 hours a day. The intended use of this was to ascertain a passport applicant's identity on behalf of the issuing procedure, but there were also criminal investigation purposes, including counter-terrorism. The Dutch Secret Service would have unlimited access to the database in situations it deemed a "threat to national security." Under specified conditions biometric data and other personal details could also be supplied to the public prosecutor for the identification of suspects (Figure 10.3).

Figure 10.3 The Dutch ID-Card (specimen). Since 2006 with a chip and since 2009 with fingerprints.[23]

During the debate on the law in Parliament the Socialist Party noted that inadequately defined laws were an increasing problem, because Parliament effectively had no say about their content. The debate in the Senate revolved around the question of whether a central passport register should be an instrument for detection and whether this violated the European Human Rights Convention. Deputy Minister Ank Bijleveld Schouten (CDA) denied that crime fighting was a rationale behind the database, arguing that it was not an instrument for detection because the public prosecutor would have no access to the register itself. Its purpose was not to find out whether citizens had a criminal record, but whether they were in possession of a travel document. A month later the law was passed without a vote in the Senate. PvdA, CDA and VVD supported the law on the grounds of fighting identity fraud, but the Socialist Party (SP), Green Left (Groen Links) and D66 had objections. Yet, from September 2009 onward four fingerprints were required of every passport or ID-Card applicant.

10.4.3 A policy window closing again?

The policy-making process may have run smoothly since 9/11, but the uncritical reception of the law by the governing parties was not shared by civil liberties groups and the Data Protection Authorities. In March 2007 they argued that the new passport register was intended for the detection of criminal acts, and that by recording the biometric data of non-suspects it constituted a serious infringement of the privacy of citizens. The Home Office reacted by publishing a brochure explaining that no legal objection could be made against the storage of fingerprints or photographs in the travel document register, which is why the organization Vrijbit – founded to resist the government's fingerprint database – took the Dutch legislation to the European Court in Strasbourg.[24] Several people, supported by Vrijbit, have since gone to Court, as did the Privacy First foundation. In a shadow report on the fourth periodic report by the Netherlands on the International Covenant on Civil and Political Rights (ICCPR), a group of Dutch NGOs severely criticized the fingerprint database plans.

Although the UN Human Rights Committee failed to address the privacy infringements, it did voice criticisms at its hearing in Geneva on July 15, 2009, which drew the attention of the Dutch media. In April 2010 it became clear that fingerprints stored in the documents and local databases were of very poor quality; the false acceptance rate lies between 20 percent and 25 percent. Donner, at that moment State Secretary of the Home Office, assured Parliament that the fingerprints in the system would be deleted, and promised to withdraw the fingerprint requirements for the ID-Card. This could be done by changing the status of the ID-Card into a national ID that does not fall under the European guideline for travel documents.[25] However, its future is unclear. On the one hand opposition is fierce, but on the other hand Donner has not ruled out the possibility of using a central database if the fingerprint technology can be improved.

10.5 Conclusion and afterthought

In this chapter we presented two policy windows that provided Dutch civil servants and policy entrepreneurs with the opportunity to develop and implement identity card systems in the Netherlands. The first policy window was the German occupation during the Second World War. In the period shortly after the First World War, civil servant Jacob Lentz advocated the development and introduction of what he believed to be a sophisticated identity card. This card would enable perfect civil registration – to Lentz almost an aim in itself. Lentz had to overcome difficulties before he could push his ideas through. Most importantly, there was a struggle between the various Ministries involved. Because it was not entirely clear from the beginning to what problem the card offered a solution, the Ministries tried to make one another foot the bill. Yet Lentz, who had started to work on his project in 1929, did not have to wait for long. It was the request of the German occupiers at the beginning of the Second World War that offered him the chance to implement his ideal of a perfect ID-Card. He could use the design he had already developed in the 1930s. Lentz' ID-Card would not survive the war. Between September 1944 and May 1945 the Military Authority put strong pressure on maintaining ID-Cards, but in the media the opinions of former resistance fighters were mixed. Some saw the card as contrary to human dignity and Dutch traditions or as a means of repression fit for a police state only. Others saw the ID-Card as expedient to the reconstruction of the civil registers, using one of the many arguments in favor which Lentz had summed up years before, or saw it as a necessary evil. ID-Cards, after all, could add to the "spiritual rehabilitation" of the Netherlands, where "corruption, protection, black marketeering, cronyism, laziness and inertia"[26] now ruled. At the end of 1946, the announcement of elections appeared as the final bell in a lingering boxing match. The introduction of new ID-Cards was shelved.

The last decades of the twentieth century would therefore be known as the "privacy paradise" (Vedder *et al.* 2007): it would take until the twenty-first century before the policy window opened again. The troubled history of the ID-Card made (re)introduction too difficult. At the same time, during the last two decades of the twentieth century privacy became less of an issue. Still, Dutch policy entrepreneurs had to wait for a policy window to restart a discussion about ID-Cards. Shortly after the 9/11 terrorist attacks in the US in 2001, a number of political entrepreneurs decided that the time was ripe for renewed introduction of the ID-Card in the Netherlands. It was clearly law enforcement and the War on Terror that were the main motives for politicians like Donner and Wijn to reintroduce the registration instrument. Yet, it was unclear what the characteristics of the card had to be in order for it to function effectively. This confusion resulted in an unclear situation, in which travel documents and driving licenses are used as ID-Cards.

Up until today there is no clear picture of what an actual ID-Card should look like, and of whether we need one at all. It may be that the policy window is still open and that it is too early to reach a conclusion about possible new

developments. At the same time, it seems that the political landscape is too complex and the technical problems (i.e., the difficulties with fingerprint databases) are too demanding for the political entrepreneurs to fully implement their ideas at present. If that holds true, we may find ourselves stuck with a hybrid system: a card that contains personal information, but that is not a real identity card, and a policy window closed to every way out of the deadlock.

Notes

1 Archief van de Rijksinspectie van de bevolkingsregisters (RI), no. 1.755 doos 27.
2 Nota betreffende de invoering van een identiteitskaart met het oog op de voorbereiding voedselvoorziening in oorlogstijd, z.d. (afd. B.B.), in RI 1.755 doos 27.
3 Map "Onderzoek naar de mogelijkheid van de invoering van een identiteitskaart, annex distributiekaart," in RI 1.755 doos 27. Ook: Lentz 1941: 7.
4 Verslag van de vergadering van 26 oktober 1938, in: RI 1.755 doos 27, Map ("Onderzoek enz.").
5 Nota inzake de vermoedelijke kosten en tijdsduur wat betreft de uitreiking van identiteitskaarten, 29 oktober 1938, in: RI 1.755 doos 27, Map ("Onderzoek enz.").
6 The government left Holland in May 1940 to go to England. The heads of de ministries, secretarissen-generaal (Secretaries-General) had to deal with Seijss-Inquart and his commissioners.
7 NIOD, CNO 160g doos 105.
8 Source: www.verzetsmuseum.org/tweede-wereldoorlog/nl/KoninkrijkderNederlanden/Nederland,maart_1941-april_1943/persoonsbewijs.
9 RI no. 1.755 doos 28.
10 RI no. 1.755 doos 28.
11 NIOD, CNO BiZa, 160e doos 105 (Strafdossier Lentz).
12 Source: www.verzetsmuseum.org/tweede-wereldoorlog/nl/KoninkrijkderNederlanden/Nederland,maart_1941-april_1943/persoonsbewijs.
13 RI no. 1.755 doos 2 (Verslagen van vergaderingen).
14 The BNV was established in 1945, and since 2002 has been called the General Intelligence and Security Service of the Netherlands, AIVD.
15 Verslag van twee leden van de commissie (Bakker of Justitie and Bonga of the BNV) over hun werkzaamheden voor de commissie, in RI 1.755.621 doos 28).
16 List of ID documents in the Netherlands (Dutch nationals): paspoort, toeristenkaart, Nederlands rijbewijs, gemeentelijke identiteitskaart. Others: verblijfsdocument vreemdelingendienst, vluchtelingenpaspoort, vreemdelingenpaspoort, niet-Nederlands paspoort, elektronisch W-document asielzoeker.
17 Status identiteitskaart Artikel 1, derde lid, van Verordening (EG) 2252/2004 luidt:

> Deze verordening is van toepassing op door de lidstaten afgegeven paspoorten en reisdocumenten. Zij is niet van toepassing op door de lidstaten aan hun onderdanen afgegeven identiteitskaarten of op tijdelijke paspoorten en reisdocumenten die een geldigheidsduur van 12 maanden of minder hebben. Europese overeenkomst nopens het verkeer van personen tussen de Lid-Staten van de Raad van Europa, Parijs, 13 december 1957, Trb. 1960, nr. 103. Op 21 september 2001 heeft de regering de NIK aangemeld als document in de zin van artikel 5 van dit verdrag.

18 Nederlandse Vereniging voor Rechtsspraak,Nederlandse Orde van Advokaten, College Beschrming Persoonsgevens, Nationale Jeugdraad.
19 Artikel 447e:

> Hij die niet voldoet aan de verplichting om een identiteitsbewijs ter inzage aan te bieden, hem opgelegd krachtens de Wet op de identificatieplicht, het Wetboek van

> Strafvordering, het Wetboek van Strafrecht, de Overleveringswet, de Uitleveringswet, de Wet overdracht tenuitvoerlegging strafvonnissen, de Penitentiaire beginselenwet, de Beginselenwet verpleging ter beschikking gestelden, de Beginselenwet justitiële jeugdinrichtingen of de Wet bijzondere opnemingen in psychiatrische ziekenhuizen, wordt gestraft met geldboete van de tweede categorie.

20 Verslag speciale commissie, December 2003.
21 Brief Remkes 20 November 2002 Advies persoonsnummerbeleid in het kader van identiteitsmanagement, file:///tmp/kst-28600-VII-21.xml.
22 EU guideline for travel documents 2004 2252: II 2010/11, 25 764, no. 48. 5 Verordening EG 2252/2004 van de Raad betreffende normen voor de veiligheidskenmerken van en biometrische gegevens in door de lidstaten afgegeven paspoorten en reisdocumenten, zoals gewijzigd door Verordening EG 444/2009. 6 Memorie van Toelichting, §3.1.
23 Source: www.nederweert.nl/internet/gemeente-contact-artikelen_18/item/nieuwe-reis documenten-vanaf-26-augustus_1079.html/.
24 Source: www.vrijbit.nl/dossiers/dossier-vingerafdrukken/item/674-vrijbit-dient-klacht-in-tegen-nederlandse-staat.
25 Source: http://vorige.nrc.nl/opinie/article2309614.ece/Wat_wil_Hirsh_Ballin_met_ de_ Paspoortwet.
26 'Pro and Contra. Het identiteitsbewijs: Een hare waarheid en noodzakelijke eisch'. De Vrije Stem.

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11 The emergence of the identity card in Belgium and its colonies

Rosamunde Van Brakel and Xavier Van Kerckhoven

11.1 Introduction

National identity policy comprises a total administrative and technological regime, which encompasses a complicated series of social and policy choices (Lyon and Bennett 2008). These choices come about through several articulations, desires and power relations that are influenced by a myriad of social, historical, cultural, political and economical factors; they function as drivers for the implementation of identity cards, which can be used for a whole array of purposes: tax, controlling movement, to sort people into categories of inclusion and exclusion, to provide people with certain benefits, and as a tool to exercise freedoms (Rose 2000; Warnick 2007; Lyon 2009). Not only do people shape technologies through the choices they make, but technologies have agency. Technologies are inherently political (Winner 1986), they can "actively contribute to the creation of certain truth regimes (whether about innocence or guilt, trustworthiness or suspiciousness, value or liability, etc.)" (Monahan 2010: 218). When deployed, they start to shape behaviours and outlooks (Lyon 2009), but also social relations, and society as a whole, which can have both positive and negative consequences.

The main goal of this chapter is to provide a first academic exploration of the drivers behind the emergence of the identity card in Belgium and its colonies by looking at identity cards as assemblages (Deleuze and Guattari 1987; Haggerty and Ericson 2000). Assemblages are characterized by a rhizomatic[1] structure. By studying identity cards as assemblages it becomes possible to obtain a more in-depth understanding of how these technologies are governed and implemented. Moreover, drivers, actors and unintended consequences come to light, which otherwise would have remained in the dark.

This chapter presents the first results of a broader exploration of the desires that lie beneath the implementation of identity cards in Belgium and its colonies. Although the identity card in Belgium has existed for a long time, very little to no research exists on the history of the card. Until recently, when the electronic identity card was implemented, apart from a few critical voices (Meerschaut and De Hert 2007),[2] most Belgian citizens did not see any issues with it; instead, they consider it as part of everyday life. In contrast, in the United Kingdom huge

resistance led to the abolition of the planned card (see Chapter 13, this volume). In addition, as Longman (2001) notes, although many analysts have referred to identity cards in Rwanda's colonial past under Belgian rule as playing a highly significant role in the 1994 genocide, very little research has been done on the actual implementation of official identity documentation in Rwanda. We will come back to this later in the chapter.

The chapter is structured in the following way. In the first part we discuss the introduction of identity cards in Belgium and offer three hypotheses as to why this occurred. The second part of the chapter will focus on the introduction of identity cards into the Belgian colonies with a special focus on Rwanda. The final part provides an analysis of how suggested paradigms in the surveillance studies corpus can contribute to a better understanding of this practice.

11.2 The emergence of identity cards in Belgium

Registration of people was nothing new in Belgium and was first implemented during the French occupation in 1792. After becoming an independent state in 1830 a law followed in 1856 which regulated the population registers and censuses.[3] Already in 1909 a type of identity card existed: the *carte de reconnaissance/erkenningskaart*, the main function of which was identification for all transactions at the post office. During the First World War the German occupiers ordered municipalities to start handing out *Personalauweisen* with pictures. From March 1915 onward all citizens were expected to be in possession of an identity card with a photograph. It was distributed by the municipality of the permanent residence of the person. One had to show one's marriage certificate to receive one.[4] Everyone was obliged to be in possession of the card from the moment they wanted to leave the municipality where they lived (Luypaert *et al.* 2004).

The main reason for the implementation of identity cards by the Germans was to increase their control over the Belgian population. Furthermore, it was used to sort people into certain categories for specific purposes. According to the famous Flemish writer Stijn Streuvels (1979):

> There was already a precursor of the news on its way but now the farmers with their horses had to go to Waregem and bring back the message, that there has been inspection and all men between 18 and 45 years are demanded to go to Germany to work and one should expect that this will also happen in other municipalities. This brings dismay to the population and all kinds of explanations are given and all the previous measures are now seen as preparation to be able to implement the regulation more easily, this explains the organisation of the control, the identity cards and the barrier. A farmer's son made the profound and desperate remark; referring to the famous "Flying Monday": "The people have fled when it was not necessary, and now that it really matters, there is no possibility anymore to flee – because everything is so well organised, no one can get away from his

> village, one cannot meet or discuss – and one must wait passively for what is inevitable".[5]

This citation makes clear that identity cards were used to organize the control and sorting practices. As referred to in the citation, the card was used to identify all unemployed men between the ages of 18 and 45 as they were supposed to go and work in Germany. From 1915 unemployed men were deported to Germany to work there. This was ratified in a decree which was signed by the General Governor von Bissing on 28 September 1916. Furthermore, the document was also used to control movement serving as a pass which allowed certain people to travel and others not.[6] The implementation of the card was very strict:[7] for instance, in 1917 the Germans informed the people that if they lost their card or unlawfully used it, this could lead to a fine of 1000 Belgian francs or a prison sentence of six weeks.[8]

After the war on 6 February 1919 a Royal Decree was published in the official journal of the State (*Moniteur Belge-Belgisch Staatsblad*), which officially introduced the identity card into Belgium.[9] The Decree states that every town council has to provide a *kaart van eenzelvigheid* (card of identity) and register every person over the age of 15 with permanent residency in that town, in the population registers, according to the model suggested by the Minister of Home Affairs (which also appeared in the same issue of the *Moniteur Belge* (see Figure 11.1 for an illustration of an identity card according to this model).[10]

Personal data that were collected were as follows.

On the one side of the card:

1. Number of card
2. Name
3. First names
4. Marital status, including name of spouse in case of death
5. Nationality
6. Place and date of birth
7. Occupation/job
8. Previous residence
9. Second residence
10. Book and paper: indication of where person is registered in population register
11. Street and number of residence
12. Date of registration in population register

On the other side of the card:

1. Portrait
2. Length
3. Date of issue of card

Figure 11.1 Illustration of a Belgian identity card of Emilie Van Zele according to the model implemented by the Royal Decree.[11]

4. Signature of person
5. Signature of civil servant
6. Municipal seal which is placed over part of the portrait.[12]

In the years following the Royal Decree, the card was used for several purposes and the type of data collected changed over the years. In 1924 a law stated that if someone's driving licence was suspended, this information would be added to the identity card.[13] During the Second World War the identity card was famously used to categorize groups of people by the use of different stamps on the identity card. The most well-known example was the identification of Jews by putting a

stamp on the card which specified *Juif* (Beer 2006). Similarly, in Tildonk, a small town in Belgium, all the inhabitants received a stamp which said "verplicht weggevoerde" (required deportation). This meant that when the command was made they would have to leave the town immediately because their community was situated next to the KW-stelling[14] (Casteels and Vandegoor 2002). Finally, in the 1960s a circular was sent round concerning the addition of the blood type of people to the identity cards.[15] This was never put into practice, however, as there was no legal way to oblige people to take a blood test to establish their blood type; this could only be requested on a voluntarily basis.[16]

In 1983 a law was implemented concerning the National Register number and in 1985 a new Royal Decree[17] was published concerning identity cards, stating that citizens had the right to choose whether or not this number would be included on their card. In the 1980s the card still contained information about marital status and the address of the holder. With the introduction of the electronic identity card (E-ID) in 2003 the number of categories on the card (both visible and stored on the RFID-chip) has been reduced, and marital status and address are no longer given. However, the Royal Decree of 2003[18] states that all new electronic identity cards will have the National Register number on them. Thus, where this was still a choice in the 1980s it has now been made mandatory. In 2009 all paper identity cards were abolished and currently all Belgian citizens over the age of 12 have to carry an e-ID on them all the time. Moreover, they need it when going to the bank, the health service, to pay their taxes online, etc. In 2014 the e-ID will also include health data, access to e-government services and other applications.[19] Also in 2009 the so-called Kids-ID was introduced, which is a voluntary electronic identity card for children under 12 years old. The card has two aims: first, it is a means of identification and verification that the child is the actual child of the parents, as the parents' name is on the card, and second, as a form of protection the card includes phone numbers that can be called in the event of an emergency.[20]

11.2.1 Three hypothetical motivations for the emergence of the identity card in Belgium

The motivations behind the introduction of the Royal Decree of 1919 are difficult to trace and initial research of the parliamentary debates yielded no results. However, three hypothetical motivations can be found. Although there is insufficient evidence, the three possible motivations that follow illustrate the importance of exploring the larger socio-political context when studying surveillance technologies. The first possible motivation comes to the fore when exploring the general political climate and motivations of King Albert I. In November 1918 a new government under the supervision of Delacroix was installed. This is known as the Loppum Revolution. It was called a revolution by Conservative critics, since a number of revolutionary laws were voted in, including suffrage for men over the age of 21, ensuring equality of the unions and equality of the two Belgian languages (French and Flemish). As King Albert I was a big supporter

of universal suffrage, one could speculate that his decision to launch the Royal Decree for the introduction of identity cards could be seen in this light: making sure that all persons who had a right to vote were registered, and having a tool that could be used to identify the persons who were endowed with the right to vote.

A second possible motivation shows up in a pioneering judgment of the Belgian Court of Cassation of 18 November 1924 in the Mertz case about the legality of the Royal Decree of 1919 which has been analysed in depth by Ooms (2009). The decree implies more than just implementing the Belgian identity card. Article 2 of the Decree states that the card is obligatory and has to be shown to the police when requested on the public road. This article and the Royal Decree were the subject of the judgment of the Court of Cassation, which was the result of the fact that a police judge had acquitted Mertz for walking around on the public road without an identity card. The judge deemed that the obligation of carrying an identity card, which was made compulsory by the Royal Decree, did not aim to to ensure the correctness and regularity of the statements concerning fixing and changing residence; nor did it have anything to do with the census. He therefore ruled that he could not find any legal basis in the law of 1856 to convict Mertz and decided to disregard the Decree on the basis of article 159 of the Belgian Constitution. The question then posed by the Court of Cassation was whether the Royal Decree could be considered an execution of a law, more specifically the Law of 2 June 1856 about conducting censuses and the population registers. The Court ruled that the executing power, within the limits of her constitutional competence, may not extend the width of a law; nor may it limit it. Rather, it had the competence to deduce consequences from the principle of the law and its general design, which naturally results from it, according to the spirit of the law and the goals for which it strives.[21] This arrest supports its argument by implying that the identity card is intimately connected with the goal of the installation of the population registers which were implemented in the law of 2 June 1856 (Ooms 2009). What is interesting for this chapter is that the Court officially provided a motivation for the implementation of the identity card, namely that it naturally flowed from the 1856 law.[22] Following on from this motivation we understand that the identity card was implemented as a method of proof that people were registered in the population registers. It is just a logical next step to make administrative procedures more efficient.

However, apart from or in addition to the motivations above, one can argue that there is a third possibility underlying the Decree. After the war, the democratization of the Belgian political system led to growing government intervention in the social-economic life of the people (Caestecker *et al.* 2009). This transformation had the effect that the registration of individuals and identity cards or "securitisation of identity" (Rose 2000) and membership of the Belgian nationality became increasingly important as the bureaucratic access to rights. For instance, in 1928 an amendment was made to the law of 21 July 1844 concerning pensions of citizens and clergy. Article 44 was replaced and part of the

new clause stated that the pensions be given to the rightful person after they present their identity card: "De pensioenen worden óm de drie maanden aan den rechthebbende uitgekeerd, mits overlegging van diens identiteitskaart."[23] It was a tool that simplified certain bureaucratic processes and could be used to identify people who were entitled to certain rights. However, at the same time, the identity cards led to increased administrative control of foreigners in Belgium, and non-nationals were excluded from more and more domains. This also led to a new sort of crime: the mobility crime. Immigration without explicit permission of the authorities could now be criminalized. In this climate, the identity card which was introduced by the German occupiers was a welcome tool for the post-war government, although not everyone was happy about such strict control. On the front page of a socialist weekly of 1925 it was written that a Belgian citizen without an identity card was punished worse than when providing benzole to the enemy to blow up their own allies:

> During the war the habit was forced upon each of us to own an identity card, which contained our date of birth, occupation and residence, even the length of our person, does not matter how unimportant, was written down. Since the war this has become a general police measure. A Belgian without an identity card is punished more severely than providing benzol to the enemy to bomb its own allies.[24]
>
> (Coole 1925)

All three hypothetical motivations presented above are possible drivers for why the choice was made to issue a Royal Decree implementing the identity card officially in Belgium.

11.3 Introduction of identification measures in the Belgian colonies

Similar to the events in 1910 in Congo,[25] after the Belgians assumed control in 1916 of the territory of Ruanda-Urundi from Germany they implemented a system of indirect rule (Longman 2001; Vijgen 2005).[26] Prior to the colonial era Rwandans were identified by their nationality and membership of a clan. Every person belonged to a clan which was well defined and known. In each clan there were three social groups, called Batusti, Bahutu and Batwa. Although the exact meaning of these categories remains contested in the literature there is consensus that these categories of identity were relatively fluid and identities could change (Uvin 1997; Longman 2001).

In 1933 a decree was published in the Bulletin Officiel du Congo-Belge: *Décret sur les circonscription indigènes*,[27] which gave the first legal basis for identity cards. This decree was announced in the meeting of the Belgian Colonial Council on 27 October 1933. It states that all adult *indigènes* of Congo and neighbouring colonies need to be registered, and when a person registers they will receive a *certificat d'identité* or *eenzelvigheisbewijs*. The decree does not

mention what the identity card would look like or what information would be included. What it does make clear in Article 11 is that the "Gouverneur Général", respectively of Ruanda-Burudi and Congo, decides how the registration will take place, the formalities needed, and the model of the documents that are distributed to the *intéressés*; in other words, the governor is held responsible for providing the model of the card.[28] Preliminary study of volumes of the Bulletin Officiel du Ruanda-Urundi between 1933 and 1943 does not reveal anything more about the implementation of the identity cards.[29]

Apart from the identity card, the decree mentions a passport (*passport de mutation*) which the *indigène* needed for travel outside the area where they lived (*circonscription*). No one was allowed to leave the area for a continuous period of more than 30 days except if they obtained explicit permission from the local administrator to receive such a passport. Travel passes were not a new phenomenon in the Belgian colonies. An article written in 1922 entitled "Émigration des noirs" from the Bulletin Officiel du Congo-Belge states that without a *passeport de sortie* the *indigènes* from Congo and neighbouring colonies could not leave the colony. Furthermore, Belgians who wanted to enter the colonies needed a special passport which included a picture, and stating the place they were visiting.

No specific research or literature was found that dealt with the implementation of identity cards in the Belgian Congo. In the existing literature about Ruanda-Urundi there is consensus that the "ethnic" identity cards were introduced together with a census in 1933 (Reyntjens 1985; Mahoux and Verhofstadt 1997; Mamdani 2001; Longman 2001; Hintjens 2001). By adding the ethnic category to the identity card each person was thereby defined as one or other of the three recognized social categories: Bututsi, Buhutu and Butwa[30] (Hintjens 2001). Several experts of the Rwandan genocide (Mamdani 2001; Hintjens 2001) see the introduction of the identity card into Rwanda as an instrument of the process of racialization by the Belgian colonial authorities. There is consensus in the literature that Belgian civil servants and missionaries in Ruanda-Burundi and Congo generally accepted the Hamitic hypothesis. The "Hamitic race" was considered superior to or more advanced than other races in Africa, descended from Europe, whereby it was assumed that all significant achievements in African history were the work of "Hamites".

The Hamith myth played a significant role in the thinking and behaviour of the Belgian administrators and missionaries, and consequentially in the major administrative reform in Ruanda-Burundi in the 1920s and the beginning of the 1930s, which in essence entailed the reformation and expansion of the territories of the chiefs (from 200 chiefs to 40). According to Gatwa (2005), the colonial authorities used both blood tests and measurements, which included weight, nose width and nasal and facial characteristics to conclude that the Batutsi were much taller than the Bahutu and Batwa.[31] It was official policy that the Bututsi were given preference when appointing domestic political authorities. In sum, by assuring a Batutsi monopoly of power, this created a crucial element in sorting and controlling the population, and also established different political categories (Mahoux and Verhofstadt 1997).

Mamdani (2001) also emphasizes the role of the missionaries in this process. In 1902 according to Father Léon Classe, the future bishop of Rwanda, the Tutsi were "superb humans" combining traits both Aryan and Semitic, just as Father François Menard, writing in 1917, saw a Tutsi as "a European under a black skin" (Mamdani 2001). Therefore, according to Mamdani (2001), the Belgians had a discriminatory policy and the identity card was used as a tool to enhance this policy. Similarly, Hintjens (2001: 30) argues that the introduction of the identity cards was "a significant first step in 'slicing up' Rwandan society into vertical, parallel tranches of humanity". She does note that although assuring a Tutsi monopoly of power, the Belgians set the stage for future conflict in Rwanda, but such was not their intent. They were not implementing a "divide and rule" strategy so much as putting into effect the racist convictions common to most early twentieth-century Europeans (Hintjens 2001).

Longman (2001), the only author who has written specifically about the introduction of identity cards in Rwanda, argues that because the available evidence is so meagre regarding the origins of the policy of official identity registration the most likely explanation is that identity cards were issued for mundane administrative purposes and not with the intention of fixing ethnic membership, as is often proclaimed by certain scholars studying the genocide. He argues further that the perceived need to fix identities was not unique to the Belgian colonies as the identity card had been implemented in Belgium after the First World War. He further illustrates that ideas about identification are nothing new by giving the example of a colonial administrator in the Belgian Congo who in 1914 suggested the implementation of fingerprinting as a means of fixing the identities of subjects, owing to the unreliability of names as a means of identifying individuals (see also Borgerhoff 1914). Registering ethnicity was, therefore, merely one component of a broader programme to increase the regulation of Belgian subjects, according to Longman (2001).

When studying the discussions of the Colonial Council (Conseil Colonial)[32] which proceeded the decree of 1933, there was nothing that specifically mentioned different treatments of different groups of people or adding ethnic categories to the identity card. However, this does not mean anything, since, as was mentioned above, the Gouverneur Général was responsible for the model of the identity card. One of the main motivations given is that they wanted to install a status for the indigenous people which was adapted to the conditions of their situation: "a satisfactory status for indigenous communities, adapted to the conditions of their current situation and likely capable of meeting the requirements of a normal evolution for an extended period" (Conseil Colonial 1933: 949).[33]

They also go on to say that they wanted to keep the local structures intact as far as possible but would use the European methods of classification: "This is because the decree does not interfere in the internal life of the indigenous communities where the custom remains sovereign." Furthermore, it was considered preferable "to adopt a method of classification of its *dispositions*, not according to indigenous concepts, but in the spirit of how the officials who will execute it are trained" (Conseil Colonial 1933: 950).[34] On the basis of these citations one

could argue that since the Belgian authorities expressed a desire not to intervene in the existing social structures they nevertheless added the ethnic category to the identity card to reflect existing social categories. Hence, it was not the desire of the colonizers per se to use the identity card to segregate or sort out populations but the deployment of the card itself which created the possibilities for ethnic sorting.

One tentative conclusion from this first exploration of official documents is that what is argued in the literature on Rwanda about "putting into effect the racist convictions common to most early twentieth century Europeans" (Des Forges 1999: 36), and the discriminatory policy of the population according to ethnicity, cannot be found in the official discourse of the Belgian government, and therefore on the basis of the consulted documents it is impossible to conclude that the Belgian government had the express intent to ethnically sort the population. This is in line with Longman's (2001) argument that the most likely driver for the issue of identity cards in Ruanda-Urundi in the 1930s seems to have been an extension of a policy issuing identity papers implemented in Belgium during the interwar years, and that the registration of ethnicity was merely one component of a broader programme to increase the regulation of Belgian subjects. This is a much more mundane explanation than that argued by authors such as Mamdani (2001) and Hintjens (2001). However, given the fact that the motivations and decisions about what to include on the identity card were made by the Gouverneur Général of Ruanda-Urundi, further research will be necessary to explore this.

11.4 Discussion

Just as Lyon (2001) argues that the history of identification reveals both inclusionary and exclusionary features of identity documentation, this chapter shows how identity cards can work in myriad ways and are often the result of an interplay of different desires, which in their turn are influenced by the socio-historical context. Identity cards can serve as a tool for some to gain access to certain services and rights, as a tool of administrative control, as a tool of control of movement, and as a social sorting tool. The technology itself is mouldable and different purposes can be folded into the technology. As we have seen in the case of the implementation of the cards in Belgium, there were probably several motivations playing a role.

Moreover, by looking at surveillance technologies as an assemblage, it becomes clear how other actors, apart from the traditional binary opposition between the surveyor (government) and surveilled (the citizens), play an important role and need to be taken into account when exploring the unintended consequences of the implementation of these technologies (Martin *et al.* 2009). As we have seen, surveillance technologies are shaped by multiple actors, at multiple levels of governance, who all have their own desires. In the case of Ruanda-Urundi there was the decision from the Belgian government to hold a census and introduce the identity card, but it was the local governor-general who

made the specific decisions about what the identity card would look like. Furthermore, the way the colonies were governed by indirect rule meant that the power was not merely top-down but much more dispersed over several actors. The power is not just panoptic, it is also pastoral. As Foucault observes in his essay "Subject and Power":

> The state's power (and that's one of the reasons for its strength) is both an individualizing and totalizing form of power. Never I think in the history of human societies…has there been such a tricky combination in the same political structures of individualization techniques and of totalization procedures.
>
> (Foucault 1994: 332)

As we have seen, the technology itself plays an active part in the assemblage. Although a certain technology may not have certain intentions such as the identity card serving as a tool for genocide, the simple fact that the technology is there means that it may be used for a whole array of purposes. In other words, although the intentions in adding, for example, ethnic categories to the identity card may not be intended as an explicit way to sort and control certain groups of people, once the technology is in place it opens the door to all kinds of control purposes, but also for abuse. This highlights another characteristic of the surveillant assemblage, namely that it is important when studying these practices to keep in mind that they are always in process, and, depending on the other actors involved, the purpose and use of technologies will change over time. This becomes very clear when looking at the development of the identity card in Belgium and the different ways in which the cards were used at different times and how they were negatively used during the Second World War. This highlights the importance of studying surveillance technologies in their historical context.

11.5 Conclusion

In this chapter we have presented a first phase of an exploration to find the drivers behind the implementation of identity cards in Belgium and its colonies. On the basis of the research carried out for this chapter we arrive at two main conclusions. First, when studying the implementation of surveillance technologies such as identity cards, it is important to understand the whole administrative and technological regime (Lyon and Bennett 2008) or the socio-technical assemblage of the identity card. By using the rhizome metaphor to look at such practices, several important variables come to light, including the focus on process, different power dynamics, multi-actors, desires and unintended consequences. Second, this chapter shows how focusing on desires and drivers behind implementation, and approaching these surveillance technologies as assemblages, the typical picture of the totalitarian central government which is surveilling the subjects becomes messier, and this questions using the Panopticon metaphor as general framework for studying surveillance as it is too limited.

Notes

1 The rhizomatic system originates from botany and comprises a multiplicity of shoots and connections. It can shoot out roots from any point. It has no beginning: no roots; it has no middle: no trunk; and it has no end: no leaves. It is always in the middle, always in process. The rhizome is in contrast with arborescent systems which are those plants with a deep root structure and which grow along branchings from the trunk (Deleuze and Guattari 1987: 8).

2 See also the case brought before the European Court of Human Rights by Filip Reyntjens in which he considered that the obligation to carry an identity card and be subject to random identity controls breached his right to privacy and freedom of movement among others. See *ECHR Reyntjes v. Belgium*, 9 September 1992, 16810/90.

3 Wet van 2 juni 1856 over het houden van volkstellingen en bevolkingsregister, *Moniteur Belge- Belgisch Staatsblad*, 7 June 1856.

4 It is not clear though what happened to people who were not married.

5 The original citation in Flemish is as follows:

> Er was reeds een voorloper van het nieuws in aantocht maar nu hebben de boeren met hun peerden naar Waregem gemoeten en brengen vandaar de mare mede, dat er controle geweest is en men alle manspersonen tussen 18 en 45 jaren opgeëist heeft om naar Duitsland te gaan werken en men 't zelfde mag verwachten op de andere gemeenten. Dat brengt de ontsteltenis onder de bevolking en allerhande uitleg wordt er rond gegeven en al de voorgaande maatregelen ziet men nu in als een voorbereiding om de verordening te gemakkelijker te kunnen uitvoeren, zo zijn de inrichting van de controle zelf, de eenzelvigheidskaarten, de gemeentesperre in die zin uit te leggen!

The author follows this up with:

> Een boerenzoon maakt daarbij de diepzinnige en wanhopige bemerking: doelend op die vermaarde 'Vliegende Maandag'. De mensen hebben gevlucht als 't niet nodig was, en nu dat 't er werkelijk zou op aankomen, valt er niet meer te vluchten, – want nu is alles zo goed ingericht, dat niemand meer van zijn dorp weg kan, men malkaar niet afspreken of beraden kan – en men lijdelijk moet afwachten 't geen komen moet.
>
> (Streuvels 1916/1979: 593–594)

6 See also "Verordening 188 § 1. Ten einde het verkeer beter te kunnen surveilleren, moeten de eenzelvigheidsbewijzen van alle bewoners van 't Etappengebied (met uitzondering van de bewoners van de grensstreek) met de naam van de bevoegde Etappenkommandantur (Etappenort), alsook met de stempel E. 4 gestempeld worden." Published in a newspaper of 26 July 1916, copied in Diary of Stijn Streuvels (Streuvels 1979: 567–568).

7 Entry in diary of Virginie Loveling on 20 May 1916: "Het toezicht over de eenzelvigheidskaart wordt streng toegepast. Wie ze niet op de eerste vraag toonen kan, loopt een groote boete op. Meiden, die aan de stoep schuieren, hebben ze in den zak, evenzoo oude wijvetjes uit een armhuis, die liggen te wieden op het land. In werkmanswijken komt het voor, dat van binnen op de straatdeur in groote letters prijkt: 'Vergeet uw pasport niet' " (Loveling 1916/2007: 435).

8 "Bekendmaking: Het verlies van een eenzelvigheidskaart of de wederrechterlijke benuttiging er van wordt gestraft met een boete van 1.000 mark of zes weken gevang. Er kan ook geldboete en gevangenis gelijktijdig worden uitgesproken" (Loveling 1917/2007: 553). Stijn Streuvels also refers to a "verordening from 26 July 1916" in which paragraph 4 states that whoever is caught after 10 August without the mandatory stamp on the ID card will receive a fine of maximum 500 marks or a commensurate imprisonment: "Wie na de 10 augustus aanst. zonder de vereiste stempel op het eenzelvigheidsbewijs betrapt

wordt, zal met ten hoogste 500 mark boete of met evenredige gevangenisstraf gestraft worden" (Streuvels 1916/1979: 568).

9 6 February 1919 – Koninlijk Besluit Betreffende de invoering van de Eenzelvigheidskaart, Moniteur Belge-Belgisch Staatsblad, 22 February 1919, p. 624.

10 Article 1 of the Royal Decree states: "De gemeentebesturen zijn ertoe gehouden aan alle personen, van meer dan 15 jaar oud, die hun gewoon verlijf in de gemeente hebben, een kaart van eenzelvigheid en van inschrijving in de bevolkingsregisters af te leveren, gelijkvormig aan het model dat door Onzen Minster van Binnenlandsche Zaken zal vastgesteld worden."

11 Permission for this picture was kindly provided by Mijn Platte Land (http://mijnplatteland.com).

12 Model van de kaart van eenzelvigheid en van inschrijving in de bevolkingsregisters door de gemeentebesturen af te leveren aan alle personen van meer dan 15 jaar oud die hunne gewone verblijfplaats in de gemeente hebben. Moniteur Belge-Belgisch Staatsblad, 22 February 1919, pp. 624–626.

13 Addition to the law of 1 August 1899, revising the law and regulations for the traffic police, Belgian Chamber of Representatives, Session of 25 July 1924.

14 A defence barricade, which purpose was to prevent the march of the Germans in the centre of Belgium.

15 Rondschrijven van 1 september 1960 betreffende de vermelding van de bloedgroep op de identiteitskaart en tot wijziging van de algemene onderrichtingen betreffende het houden van de bevolkingsregisters, de vaststelling van de verblijfs- veranderingen en de afgifte van de identiteitskaarten en -stukken, OmzFO 6846, consulted on www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&nm=1986800298&table_name=titel.

16 Belgian Chamber of Representatives, Session 16, January 1969.

17 29 July 1985 – Koninlijk Besluit Betreffende de Identiteitskaarten, Moniteur Belge-Belgisch Staatsblad, 7 September 1985, p. 12806.

18 25 March 2003 – Koninlijk Besluit Betreffende de Identiteitskaarten, Moniteur Belge-Belgisch Staatsblad, 28 March 2003, C – 2003//00227, p. 15929.

19 Schriftelijke vraag no. 5–8133 van Jean-Jacques De Gucht (Open Vld) d.d. 14 February 2013 aan de vice-eersteminister en minister van Binnenlandse Zaken en Gelijke Kansen, www.senate.be/www/?MIval=/Vragen/SchriftelijkeVraag&LEG=5&NR=8133&LANG=nl.

20 Ministry of Home Affairs, Kids-ID, www.ibz.rrn.fgov.be/index.php?id=1504&L=1.

21 The court ruled: "Attendu que si le pouvoir exécutif, dans l'accomplissement de la mission que lui confère l'article 67 de la constitution, ne peut étendre pas plus qu'il ne peut restreindre la portée de la loi, il lui appartient de dégager du principe de celle-ci et de son économie générale les conséquences qui a présidé à sa conception et les fins qu'elle poursuit", cited in Ooms (2009: 5).

22 This arrest raised a lot of eyebrows; see for a discussion Ooms (2009).

23 Belgian Chamber of Representatives, Session of 8 August 1928.

24 Original citation in Flemish: "Gedurende den oorlog wierd ons de gewoonte opgedrongen elk een eenzelvigheidskaart te bezitten, waarop onze geboortedatum, beroep en woonst aangeduid is, tot zelfs de lengte van ons persoontje, hoe nietig ook, is er op neergeschreven. Sedert den oorlog is dit een algemeene politiemaatregel geworden. Een Belg zonder eenzelvigheidskaart is erger strafbaar dan benzol leveren aan den vijand, om eigen bondgenooten omver te blazen" (Coole 1925).

25 See Decree of 10 May 1910 whereby the local chiefs were involved in colonial administration.

26 On 23 August 1923, the League of Nations officially mandated Rwanda and Burundi under Belgian supervision (see Melvern 2000: 9).

27 Décret sur les circonscriptions indigénes, *Bulletin Officiel Congo-Belge 1ére partie*, 1933, pp. 1004–1035.

28 Article 11: "Le Gouverneur Général détermine: 1. Le mode suivant lequel s'effectuera le recensement; 2. les formalités à accomplir tant pour les mutations; 3. le modéle des pièces à délivrer aux intéressés." None of the existing literature refers to primary sources however. Further research in both the *Bulletin officiel du Congo-Belge* and *Bulletin officiel du Ruanda-Urundi* has not uncovered any more information about the introduction of the identity card in Ruanda-Urundi or Congo. However, several issues were missing in the archive, including an issue of the *Bulletin officiel du Ruanda-Urundi*, which should have a model of an identity card in it.

29 We have, however, found an indication on the internet that a model of identity card may be found in the edition of 1944, CEHRGLA Lot 22 V, www.cehrgla.com/index.php/articles/105-lot-22-v.html. This volume was missing in the archive of the Central Library, Catholic University Leuven which we consulted. Future research will need to be done in other archives to find this volume.

30 An interesting observation is that in the media and more vulgarizing publications the ethnic category of the Butwa is not mentioned.

31 Hintjens (2001) indicates that Europeans were obsessed with height at this time, since "most anthropologists equated small stature with racial inferiority". It should be noted though that neither Gatwa, nor the report by Mahoux and Verhofstadt (1997), to which Gatwa refers, mentions primary sources for this.

32 This was the official body that gave advice about each colonial legislative act and was consulted about all important colonial issues.

33 Original citation: "d'un statut satisfaisant pour les communautés indigènes, adapté aux conditions de leur situation actuelle et vraisemblablement susceptible de répondre durant une période assez longue aux exigences d'une évolution normale" (*Bulletin Officiel Congo Belge – 1ére partie*, 1933: 949).

34 Original citation: "C'est parce que le décret n'intervient pas dans la vie intérieure des communautés indigènes où la coutume reste souveraine, sauf exclusion de ce quelle contient d'incompatible avec notre civilisation, et qu'il est systématiquement orienté vers l'établissement, dans un intérêt communautés et l'autorité européenne, qu'il fut jugé préférable, lors de la rédaction, d'adopter une méthode de classement de ses dispositions, conforme non pas aux conceptions des indigènes, mais à la formation d'esprit des fonctionnaires qui l'exécuteront" (*Bulletin Officiel Congo Belge – 1ére partie*, 1933: 950).

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12 Available, necessary or unwanted

National registration, surveillance, conscription and governance in wartime Canada, 1914 to 1947

Scott Thompson

12.1 Introduction

Although Canada has no currently implemented National Registration or identity (ID)-Card program for all of its citizens as of the time of writing, its history regarding the governmental identification and differentiation of types of peoples within its borders is incredibly rich, and its particular history regarding National Registration is filled with stories of effective direct action against its application as a tool of governance and of cases of political subterfuge about how collected data was to be used. Throughout its history Canada has developed and implemented two National Registration programs in 1917 and later in 1939. Each was developed as a wartime measure in order to select men to be conscripted into the Armed Forces, and as a result, the design of these two National Registration systems was based in a desire to forcefully have conscripted individuals take up new governmentally ascribed social roles and, as part of these roles, perform assigned tasks which they would not have otherwise done. In short, these surveillance systems, and their subsequently developed and implemented technologies, each existed as means directed at governing the behaviors of targeted individuals and populations – seeking to bring their daily actions into accordance with the government's goals regarding the conscription of men.

Although the concept of conscription has been largely normalized in cultures around the world – in particular within Western historical conceptualizations of strategies of "Total War" which worked to integrate Home Front industrial production with the state as part of war efforts – it is important to stress the very real coercive and totalitarian aspect that these programs took up within the Canadian wartime experience. Importantly, individuals facing conscription under these systems could have chosen to volunteer to serve in the Armed Forces at any time, had been given ample opportunity to do so, and were continuously made aware of this fact by government media messaging as well as through local news media. As a result, entering the Armed Forces in Canada during the war years was an easy task to achieve for nearly everyone, while the conscription, or "mobilization" of individuals (as it came to be called during the Second World War) necessarily worked to alter the behaviors of those selected, mediating their life chances and forcing them to take on highly regulated and

dangerous individual performances. Over the course of Canada's wartime history between 1917 and 1947, the different technologies implemented as part of the two National Registration programs demonstrate not only how these systems worked to identify and conscript individuals, but also provide key insights regarding how specific National Registration technologies worked to govern the performances of targeted individuals and populations. In particular, this chapter argues that policy designed to rationalize the selection of men who were to be called into service in the Armed Forces during the First and Second World Wars worked additionally to develop a particular social order in Canada – asserting a rationality regarding who was considered to be "necessary" within Canadian society, who was "available" to be called into military service, or who was "unworthy" of participation in the war effort in the on-the-ground performances of classified individuals. Although it was the necessity of producing soldiers for the war effort that drove the government's conscription program, it was rationalities regarding a desired social ordering of Canadian society which required the highly complex identification, classification and social sorting technologies of a National Registration program in order to achieve this.

Although there was significant complexity in how the National Registration and conscription policy played out on the ground, this chapter works to flesh out the selection process of Canada's two National Registration programs in order to demonstrate the role they played in asserting a particular social order within Canadian society.

12.2 The First World War National Registration 1917 to 1919

Canada's first National Registration system originated with the passing of the Military Service Act (MSA) on August 29, 1917, the decision having been made after "several reverses on the battle field had been suffered by the Allied Forces" (Department of Labour 1949: 9). Specifically, the new Act enabled the government for the first time during the war to forcefully conscript individuals into the ranks of the Armed Forces. As part of the legislation that was drafted, all men and women over the age of 16 were called to register their personal information with government officials.

Although this system was developed and implemented primarily to achieve the end of the mass conscription of men into positions within the Armed Forces, it was understood that the indiscriminate drafting of men could be detrimental to the functioning of Canadian society – as men with dependants or men working in the police or as firefighters were understood to be necessary to their communities. As a result, the specific decision to adopt surveillance technologies was one which focused on rationalizing this practice, and worked to ensure that stability and efficiency were maintained within the country, first, by sorting the population by their perceived relative value within their community, and second, selecting only those deemed to be "available" or "unnecessary" to be conscripted. In this way, the implemented technologies were designed to assert this

rationalization of individual utility by working to identify, assess and sort individuals into classified and actionable populations.

12.2.1 The First World War registration process

Like all surveillance systems, National Registration required the collection and analysis of individualizing data. The act of registration itself was held on June 22, 23 and 24, 1918, and was run like an election. The country was divided by federal election polling districts and each individual registrant, like a voter, was to present themselves to their allocated polling station and have a registration official take down their information and register them. In order to register, each individual was required to fill out a preprinted "Questionnaire Card" which held 16 questions relating to nationality, employment and job training, as well as questions concerning identifying information such as name, address and age, forming the basis through which individuals would be categorized (see Box 12.1).

Box 12.1 First World War National Registration questions 1918

1 Name in full (surname last)
2 Age
3 Permanent address (street, town, province)
4 Nationality? Can you speak English? French?
5 British subject? By birth? Naturalization? Marriage?
6 Are you single? Married? Widowed? Divorced?
7 How many children or wards under 10? Will these children be recorded by another registrant?
8 Do your health and home ties permit you, if required, to give full-time paid work? (Registrants answering "No" here need not answer any of the following questions. Those answering "Yes" or in doubt should fill in rest of the card. All must sign affirmation.)
9 Do your circumstances permit you to live away from home?
10 What is your present main occupation? (a) If in business as employer, state number of employees. (b) If an employee, state name, business and address of employer. (c) If full-time voluntary worker, state name of society served.
11 State particulars of each, if you have: (a) trade or profession; (b) degree, diploma or certificate; (c) special training.
12 State length of experience (in years) if any in: (a) general farming; (b) truck farming; (c) fruit farming; (d) poultry farming; (e) dairy farming.
13 Can you: (a) Drive a tractor? (b) Drive a motor car? (c) Drive a horse? (d) Harness a horse? (e) Do plain cooking?
14 Indicate here any qualifications or practical experience which you possess, not already described.
15 Considering your health, training and experience, and the national needs, in what capacity do you think you could serve best?
16 Do your circumstances permit you to give regular full-time service without renumeration?

Source: *Red Deer News*, "Procedure of Registration," June 12, 1918.

Upon completion of the Questionnaire Card, those who had registered were then issued with identity cards referred to as "Certificates of Registration," which they were then required by law to carry on their person at all times. The ID-Cards themselves measured 10.5cm × 7cm and included the individual's name, address, as well as their signature. In addition, the cards bore an individualizing number containing a total of up to nine digits. The individualizing number was separated into three sets of up to three digits; the first three identified the registrant generally by their region within the country, the second three by their voter district, and the final three identified them individually within their region and voting district. This number allowed ID-Cards to link specific individuals to other internally held government documents and worked to check an individual's identity (see Figure 12.1).

The collecting, tabulating and running of the First World War National Registration system fell under the purview of the Dominion Bureau of Statistics; however, the conscripting of men into the Armed Forces fell under the jurisdiction of the Minister of Justice. In sorting out who was to be selected, the First World War National Registration officials drew on the data collected, sorting out the women first, while the remaining classification and selection focused on age, if the individual had any dependants, and if the individual held a particular listed occupation. As a result, the men of the country were separated into one of six constructed categories: Class I, those who were over the age of 21 and unmarried[1] or widowed without children; Class II, those who were over the age of 21, were married or widowers and had at least one child; Class III, those who were born between 1876 and 1882 (aged 35 to 41 in 1917) who were unmarried and without children; Class IV, those who were 35 to 41 years old who had at least one child; Class V, those who were born between 1872 and 1875 (aged 42 to 45) who did not have children; Class VI, those who were aged 42 to 45 with at least one child.

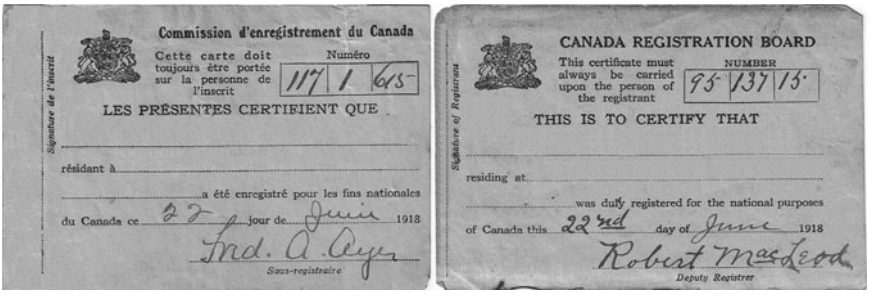


Figure 12.1 First World War National Certificate of Registration 1918 to 1919. The cards themselves held the individual's name, address and signature, as well as a unique identifying number which distinguished the region of the country, polling district and individual. (Source: George Metcalf Archival Collection © Canadian War Museum, 19760142–006 and 19760142–006a (English and French versions).)

Under the Military Service Act of 1917, certain types of men were to be exempted, or "protected" from being conscripted into the military. The classes of men who were also singled out not to be conscripted under the Military Service Act of 1917 included those already in the Navy, in any of the reserve or auxiliary forces, those men who were called to service by their own country or were from India, men who had been honorably discharged from the Canadian Forces since August 4, 1914, those who were members of the clergy, those who were legally exempted on religious grounds having been persons mentioned in Order-in-Councils on August 13, 1873 and December 6, 1898 (Mennonites and Doukhobors), as well as those working within the police forces, fire departments or in any public institutions, such as prisons or hospitals.

In addition to those not to be called, such as those mentioned above, the legislation also noted that certain men were to be protected from conscription if they fell under one of two main categories: first, those who were to be exempted on "National Grounds" if they could prove that their employment was necessary for the national interest; and second, those who could demonstrate that because of *who they were* they should not be called, and instead exempted on "Personal Grounds."

Exemptions on National Grounds were granted for one of two reasons – either if the individual could show that their present occupation was "considered to be of the National Interest" or if their prospective employment fell under that same classification. With regard to the Personal Grounds for exemption, individuals could apply based on one of six categories. The first two categories took on a strong financial bias, as men were to be granted exemption in cases of "Financial Obligation" where "men whose withdrawal from the home into military service would result in grave financial hardship to dependants"; and second, "Business Obligations" exempting "men upon whom depended the prosperity or the existence of a business" (Department of Labour 1949: 75). Men were also to be exempted in cases of "Ill Health or Infirmity"; "Conscientious Objection"; in cases where they were classified as being "Enemy Aliens" or "British Subjects of Enemy Origin"; or if their "Domestic Position" was such that others were dependent upon them for "reasons other than familial" – that is, if they employed others (ibid.: 75).

Claims for exemption were sent to the division Registrar which then supplied the necessary paperwork to the local exemption tribunal along with "all corroborating evidence which the applicant wished to have considered" (ibid.: 76). The local board would then decide if the issuance of an exception was warranted. In successful cases men were issued with specific "Exemption Certificates." Exceptions were to last for the entire period of the war. Due to the selection process stressing finances, the employment of others and business ownership, the selected population expressed a form of governance which favored those who were older, owned the means of industrial production, had dependants or who had significant experience within particular industries. In this way, a particular understanding of who was necessary to Canadian society found expression in the National Registration program and its conscription of men.

A provision had also been added in order to protect men who were employed in wartime production, since men joining the Armed Forces had put a strain on several industries. Men who believed that they should be exempt from military conscription due to their employment within wartime industries were to self-report to a post office once they had been called and to apply for a "certificate of exemption."

On October 13, 1917 a Royal Proclamation was issued which called men of the above-mentioned "Class I" to report to a military training facility for service. On April 20, 1918 this group of called men was then extended to include unmarried men of 19 years of age. Once the proclamation had been issued, the specific age class of men was legally enrolled in the Armed Forces, having now been institutionally classified as "enlisted" in the Canadian Military, and made subject to military rules and authority. Those selected men were ordered to report to their nearest post office and register themselves for military service. Those not immediately reporting were to be considered "absent without leave" and subject to prosecution under section 101 of the Military Service Act of 1917. Throughout the country, post offices had been issued with two standardized forms regarding conscription – the first, as noted above, registered the individual for military service, while the second was to register an appeal of their conscription orders and assert a claim to be granted "protected" status (ibid.: 76). All called individuals would be required to carry a certificate noting that they had either submitted the necessary "Report for Military Exemption" or filed a claim for exemption. Those men who were not granted exemption were to report for medical examination and classification, and if found fit were then sent on to military training camps.

12.2.2 First World War politics of conscription (Easter Riots)

The open tying of National Registration to forced conscription meant that political resistance could develop even before any data had been collected at the registration tables. As noted above, the Borden Government had gone back on their promise to not impose conscription during the First World War and instead drafted the Military Service Act of 1917 for that sole purpose. The legislation was to draw conscripts from each of Canada's provinces; however, popular sentiment within news media called for more strict enforcement upon Canada's French-speaking population who resided for the most part in the province of Québec, and at the time were widely depicted within news media as not "pulling their weight" in respect of providing troops to the war effort (see e.g. *The Edmonton Bulletin*, 1917, 1918a). When the legislation was first discussed in May 1917 there was significant protest across the province of Québec for this reason (Auger 2008: 507). On the day that the legislation was passed, a major protest was launched in Montréal, leaving one dead and seven others wounded, while plots to bomb pro-conscription officials and newspapers were reported to have been averted by Québec police. Political unrest and opposition to conscription continued after the passage of the Act, but came to a head in March 1918

when direct action against registration technologies would culminate in three days of violence which would later be dubbed the "Easter Riots."

The situation boiled over on March 28, 1918 when a young man, who failed to produce his identity card and proof that he was legally working within a protected industry, was detained by police in Québec city. Outrage over this act spread quickly, leading to direct action being taken by thousands of protesters who had quickly gathered on the city streets. Protest was targeted at government offices and resulted in the forced entry of a Québec city government office and the burning of National Registration and conscription administrative documents. Protest actions continued from March 28 to April 1, 1918, and in response, the Borden government deployed 6000 Anglo soldiers to Québec to maintain order and enforce conscription – placing the province under martial law (*The Edmonton Bulletin* 1918b, 1918c; Auger 2008: 507). By the time these protests were quelled, over 150 civilian and military casualties had been recorded and English-Canadian soldiers became a fixture at government offices throughout the predominately French province, not being removed until early 1919 (Auger 2008: 504–512).

Unlike the later Registration programs of the Second World War and the 1950s, the link of registration to conscription was quite open and freely expressed within the government's media messages – as the Borden government had announced in May 1917, it would be enforcing a policy of conscription (ibid.: 507). The First World War system was also unique within the Canadian experience in that it was very short-lived, only being fully implemented in June 1918, 17 months before the end of the war. As a result of this, the First World War history denotes the development of significant and targeted resistance and violence against National Registration as well as a very heavy-handed government response. Due to the program's short time span this approach was successful in avoiding further destruction of registration technologies, though the government quickly opted to destroy all collected National Registration data upon the completion of the war. Nonetheless, technologies implemented during the First World War denote the assertion of a particular social order tied to rationalities developed regarding an individual's "utility," drawing strongly from patriarchal concepts of male familial responsibility and social relations within the capitalist mode of industrial production.

12.3 The Second World War National Registration program 1940 to 1947

Out of their First World War experience government officials learned several key insights regarding the implementation of registration and ID-Card technologies as a means of exerting governance. First and foremost, they learned that it was a mistake to inform the population, the target of such efforts, what the true function the imposed technology was to have. That is, being open about the fact that National Registration would be used to enforce the incredibly unpopular legislation of conscription during the First World War had resulted not only in

the immediate development of resistance but it was also observed that the government had created a situation in which those who did not want to be forcefully called into the Armed Forces simply did not register, and as such, were not made visible or actionable through the government's surveillance system. In addition, this open association between registration and conscription led to the highly effective targeting of resistance against these technologies through political and direct action – as was experienced in the politicization of registration and the later burning of Registration Offices and documents in Québec during the Easter Riots. Also learned as a result of the First World War experience was that registration and conscription would require closer ties to industrial production on the home front, as indiscriminate conscription and enlistment had led to significant workforce shortages in several countries – most notably for the Canadian policy makers were those experienced in agriculture in Canada and the more extreme case experienced in the United Kingdom (*The Edmonton Bulletin* 1918d; Thompson 1978: 62; Beckett 2007: 455–456). When internal calls were made within the Canadian government for the development of a means to enable conscription through National Registration in 1939, these lessons became central to the formation of its Second World War National Registration policy.

The decision to implement a new National Registration program in Canada came as a result of Germany's entry into France, as it "brought about the first realization of what [the Allied countries] were up against and that the days of leisure were over," and it was subsequently decided "that rapid and fast action was required to cover over the mistakes made by th[eir previous] leisurely policy" (Department of National War Services 1941). Given these setbacks it was understood within the government that conscription would again be necessary in order to field the number of required soldiers, and the development of a new National Registration system was immediately put underway to achieve this goal (ibid.). Although this technology was again designed in order to call men into service in the Armed Forces, government officials aimed to avoid the legislation or subsequent technologies being associated with conscription in any way. As such, the program was to be presented publicly as a type of census taking – or simply "taking stock" of Canada's labor power as a means to properly inform the government's wartime policy decisions (Department of National War Services 1940a). Although this was National Registration's public face, behind closed doors this presentation and the complexity of the associated legislation was carefully calculated and characterized as having necessitated "sufficient window dressing" to conceal the system's primary function of conscription (Byers 1996: 178). In addition, the term "conscription" was considered overly political and was not to be applied; instead the legislation would refer only to the "mobilization" of "resources" (see National Resources Mobilization Act 1940).

The actual registration of the population living within Canada took place on August 19, 20 and 21, 1940, and mirrored that of the First World War National Registration – again requiring all men and women over the age of 16 to report to their local voting locations and wait in line for their turn to register. Registered individuals' data was again recorded on Questionnaire Cards by thousands of

trained local volunteers and overseen by Registrars charged with collecting the system's vital information (Department of National War Services 1940c). Separate Questionnaire Cards were developed for men and women, containing 18 and 20 questions respectively, and recorded detailed personal information regarding marital status, nationality, racial origin, occupation, job training and farming experience (see Box 12.2).

Box 12.2 Second World War National Registration questions 1940 to 1947

Shared questions

2 Permanent postal address (if away from usual residence when filling in card give name of usual residence).
3 Age last birthday, date of birth.
4 Conjugal condition: single, married, widowed, divorced.
5 Of what dependants (if any) are you the sole support: (a) father; (b) mother; (c) wife; (d) number of children under the age of 16; (e) number of other dependants; (f) do you contribute to partial support of anyone?
6 Country of birth of (a) yourself (place); (b) your father (place); (c) your mother (place).
7 Nationality or country of allegiance: British subject (a) by birth; (b) by naturalization; (c) foreign citizen; (d) if naturalized, in what year; (e) in what place; (f) if not British subject, to what country do you owe allegiance?; (g) if an immigrant, in what year did you come to Canada?
8 Racial origin.
9 Language or languages: (a) do you speak English?; (b) French?; (c) what other languages do you speak, read and write?
10 Education: (a) primary only; (b) primary and secondary; (c) vocational training (business college, technical high school); (d) college or university degree.
11 Is your general health: (a) good; (b) fair; (c) bad?
12 If blind, deaf, dumb, crippled or otherwise physically disabled, state nature of disability; if permanently disabled, are you in receipt of a pension in respect of war service; workmen's compensation; old age or blind; other (specify).
13 Class occupation: (a) Are you an employer of labour other than domestic? If so, state business. (b) Are you working on your own account, but not employing labour? If so, state business. (c) Are you an employee (1) working at your usual occupation; (2) working at other than your usual occupation; (3) unemployed; (4) not working because you are a pensioner, dependant, retired, independent means (specify)?
14 Occupation or craft: (a) What is your present occupation – years of experience? (b) What is your regular occupation – years of experience? (c) What other work can you do well – years of experience? (d) If an employee, who is your present employer; name, address, nature of business where employed (state precisely)? (e) If experienced in a skilled industrial occupation or profession, describe specifically the type or types of work you are specifically equipped for by training or experience.

15 Unemployment: (a) How many weeks did you work in the past 12 months? (b) If out of work now, state number of weeks since last employed in any occupation other than work performed in return for direct relief. (c) Are you totally incapacitated for employment?
17 (Men)/19. (Women) Is there any particular occupation in which you would like to be specially trained?

Questions for men only

1 Surname, given names.
16 Were you brought up on a farm: (a) general farming; (b) truck farming; (c) fruit farming; (d) poultry farming; (e) dairy farming; (f) business establishments?
18 Defence Services: (1) Have you previously served in any Naval, Military or Air Forces? If so, state (a) Forces of what country; (b) approximate dates between which services performed; (c) unit; (d) rank held. (2) If retired or discharged, give reasons therefore. (3) Have you been rejected for military service in the present war? (a) Why? (b) Where?

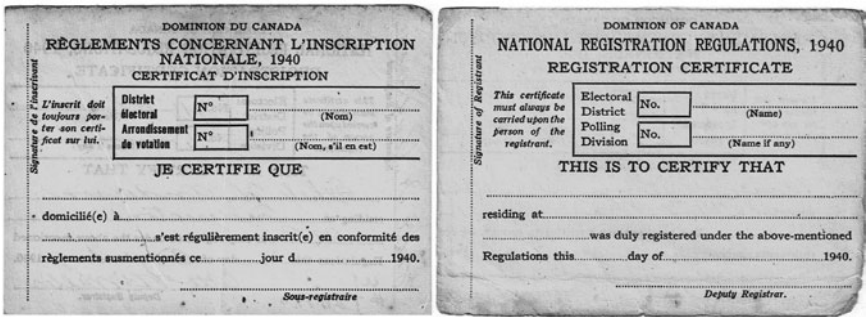
Questions for women only

1 Surname, given names: (a) if married, state maiden name.
16 State length of experience (in years) if any in: (a) general farming; (b) truck farming; (c) fruit farming; (d) poultry farming; (e) dairy farming; (f) business establishments.
17 Can you: (a) handle horses; (b) drive motor trucks; (c) drive an automobile; (d) drive a tractor; (e) use farm machinery; (f) milk cows; (g) do plain cooking?
18 Indicate here any qualifications or practical experience you possess, not already described.
20 Do your circumstances permit you to serve in the present national crisis, by changing your present occupation to some other for which you are qualified (a) Where you can return home daily? (b) Away from the house?

Source: *The Globe and Mail*, "National Stock Taking Needs National Registration." August 8, 1940.

After the cards were completed, duplicates were made to be used within the local Division Offices, by Registration officials in charge of conducting the tasks related to conscription of men at the local level. The Questionnaire Card originals were then sent to Ottawa to make up a complete record of all collected data, forming a card catalog dubbed "the Central Registry." In addition, similar to the First World War, each individual was issued with an identity card.

Identity cards were generally blank on the reverse; however, in areas of the country where both English and French were spoken, cards were printed with English information on one side and French on the other.


DOMINION DU CANADA
RÈGLEMENTS CONCERNANT L'INSCRIPTION NATIONALE, 1940
CERTIFICAT D'INSCRIPTION
Signature de l'inscrivant
L'inscrit doit toujours porter son certificat sur lui.
District électoral N°
Arrondissement de votation N°
(Nom)
(Nom, s'il en est)
JE CERTIFIE QUE
domicilié(e) à
s'est régulièrement inscrit(e) en conformité des règlements susmentionnés ce jour d 1940.
Sous-registraire

DOMINION OF CANADA
NATIONAL REGISTRATION REGULATIONS, 1940
REGISTRATION CERTIFICATE
Signature of Registrant
This certificate must always be carried upon the person of the registrant.
Electoral District No.
Polling Division No.
(Name)
(Name if any)
THIS IS TO CERTIFY THAT
residing at
was duly registered under the above-mentioned Regulations this day of 1940.
Deputy Registrar.

Figure 12.2 National Certificate of Registration/Certificat D'Inscription 1940. Source: George Metcalf Archival Collection © Canadian War Museum, 58A 1 25.14; 19740140–036 and 19630077–001.

12.3.1 The Second World War social sorting and military conscription

New to the second National Registration was the degree of analysis that went into sorting and classifying the data gathered on collected individuals, since much greater attention was to be given to the proper selection of men. Unlike the First World War, registration officials would review the registration data of all men within their division and decide on a case-by-case basis who was available to be conscripted. As it was noted:

> if the unemployed and unessential manpower of the country could be transferred directly into the Defense Forces, leaving essential industries and utilities undisturbed to merely change from peace to war production, only part of the community would be disrupted. … This means that for maximum efficiency all the best designing, construction and manufacturing technicians and tradesmen would be reserved, while the cream of operative and maintenance manpower (less a small percentage reserved for testing and proving) would be at the front.
>
> (Committee of the Cabinet of Internal Security 1939)

As a result, the government's statistical branch "the Dominion Bureau of Statistics" was called on to conduct a detailed analysis of the collected National Registration data in order to identify certain populations to local Registrars in charge of conscription. The focus of this analysis was to separate those who were "necessary" from those who were "available" to be called into service in the Armed Forces, and additionally to identify specified alien and religious populations considered to be a potential danger to the war effort (*Gleichen Call* 1940; *La Liberté et le Patriote* 1941). With regard to an individual's necessity, or utility to the state, the Dominion Bureau of Statistics' data analysis focused on

occupation and employment status, seeking out and identifying individuals trained or employed in any of the government's established 200 "reserve occupations" (Department of National War Services and Dominion Bureau of Statistics 1941). These occupations were considered necessary for industrial production as part of the war effort and were to be procedurally protected from conscription efforts. By 1941, the Dominion Bureau of Statistics had completed their work and the information of over 1,050,000 individuals had been directed "for the use of the Department of Defence," having been identified for conscription, while lists of the names and addresses and occupational information of over 2,200,000 others were "placed at the disposal of the Departments and others requiring such information" (Department of National War Services 1941). These lists were "fifteen miles in length when the task was completed."

To further rationalize the conscription selection process the government called on the private sector to contribute to the identification of those who would be called up into the Armed Forces. Section 15(1) of the National Resources Mobilization Act of 1940 – the legislation which dealt with National Registration and how it related to conscription – allowed any "manufacturer, financial institution, public service corporation or other employer" to prepare a semi-yearly plan of their labor needs and submit it to Registration officials (Department of National War Services 1940b). In return for the submitted plan, employers were granted "two privileges": first, the privilege to decide "the serial order in which [their] employees w[ere to] be called out to military training" – as employers were considered by registration officials to be the "best qualified to determine who are the good ones and who are the dead wood"; second, the privilege to decide how many of their men would be conscripted, being given the right to fix "the quota of men [they would] release monthly" for conscription (Department of Labour 1942a). As such, these employers were to classify their own men into four categories, from those considered to be necessary, to the "dead wood," whose names could be put forward first for conscription. In addition, those listed by their employers as necessary were to be granted a "postponement" of their military service – receiving a specialized postponement certificate and distinctive legal status. If they left their current employment, however, this postponement would be terminated and they were to be immediately called into service. This termination policy was adopted specifically to prevent "one industry from rob[bing] another of its employees," but perhaps more importantly this policy had been taken up in order to control labor activism – having been designed specifically "to prevent strikes" (ibid.). As registration officials noted, if a strike did occur the positions of the striking individuals would be considered to be "terminated, and if a group of men leave their employment their postponement is automatically revoked" (ibid.).

This rationalization of the utility of men to the state's goals of industrial production and military conscription found expression in the classifications of individuals called up into service in the Armed Forces. Data collected by registration officials regarding who was conscripted tracked specified categories of men – distinguishing them through sets of classifications falling under the fields of

Occupational Category, Industrial Group, Place of Birth, Religion, Age, Province of Residence, and Languages Spoken (Byers 2000: 114). Within these data it may be seen that there is an underrepresentation of certain classifications of men while others are overrepresented, resulting in the population of conscripted men retaining a distinctive young, male and working-class background (see Table 12.1).

This governance of the population extended beyond industrial utility as well, as the Dominion Bureau of Statistics and registration officials were also called on to identify other individuals falling under social categories based on nationality, country of allegiance and racial origin. Their very first task was to identify and locate all individuals classified as Japanese, Doukhobors and Mennonites,[2] supplying to the government complete lists of each of these individuals. Although the Dominion Bureau of Statistics' analysis of National Registration data had been conducted to classify individuals primarily by industry, the punch cards used to perform this sorting of the population held additional fields including marital status, country of birth, nationality, racial origin, languages spoken, education and health, allowing the population to be sorted by these classifications as well.

"Alien populations," namely those who were not Canadian citizens or British subjects under the Naturalization Act of 1914 and the Immigration Act of 1910,[3] were also sorted by nationality, country of allegiance and racial origin, creating the system's classifications of Enemy Aliens, Allied Aliens and Neutral Aliens. Initially, no aliens were to be conscripted and only those who were investigated and granted an exemption by the country's Federal police force, the Royal Canadian Mounted Police, were to be allowed freedom of movement within the country, and the right to enlist in the Canadian Armed Forces. This policy was quickly loosened for allied and neutral aliens; however, conscription policy secretly continued to exclude certain classes of individuals based on their nationality or racial origin. The first secret circular memorandum issued by the Department of Labour regarding conscription explicitly instructed registrars not to call up men of "oriental" origin – even when conscription policy was loosened in the war's later years. Over the course of the war, Registrars were repeatedly reminded that Secret Circular Memorandum No. 1 still applied, and that "Registrars [were] instructed not to call out British subjects in Canada of Chinese origin," that individuals naturalized after the first day of September 1929 who previously held allegiance to an enemy sovereign were still to be excluded, and that Registrars were not to conscript men who were classified as enemy aliens "unless such men [we]re in possession of a 'Certificate of Exemption' issued by the Royal Canadian Mounted Police" (Department of Labour 1943a). Policy regarding the military service of Chinese or other types of "Orientals" remained secret from the general public and acted contrary to the NRMA legislation. Internally it was explained to registration officials that "while the regulations call for these men being ordered out for military training" the "difficulty is that some aliens are not acceptable for military services" (Department of Labour 1943b). Further explanations asserting the discrepancy between publicly known regulations and internal

Table 12.1 Second World War classifications of conscripted soldiers and their over- and under-representation in comparison with Canadian census data

Occupational category		*Industrial group*		*Place of birth*	
Operatives[A]	76,047 (+7.20%)	Transportation	18,575 (+4.41%)	Total Canadian	145,439 (+17.31%)
Laborers	21,950 (+6.33%)	Construction industry	11,663 (+0.88%)	Total Asian	20 (–0.51%)
Clerical and sales workers	14,705 (+0.14%)	Manufacturing	35,184 (+0.40%)	Total American	1,919 (–2.60%)
Professional occupations	3,570 (–2.21%)	Utilities[C]	107 (–0.56%)	Total European	7,183 (–3.37%)
Owners and managers	2,436 (–4.78%)	Finance[B]	731 (–1.36%)	Total British Born [D]	3,041 (–10.48%)
Farmers and farm workers	38,734 (–7.07%)	Extractive industries	9,451 (–1.05%)		
		Service industries	11,111 (–3.55%)	Not stated	452
Not stated	614	Wholesale trade	6,928 (–7.04%)		
		Agriculture	38,318 (–7.36%)		
		Not stated	25,988		

Religion		*Age*		*Languages*		*Province*	
Roman Catholic	91,320 (+16.01%)	16–19	2,664 (–9.44%)	Both	33,143 (+20.97%)	Québec	55,402 (+6.09%)
Other	6,709 (+2.13%)	20–29	124,447 (+54.66%)	French	30,125 (–10.10%)	NB	7,165 (+0.56%)
Jewish	3,479 (+0.74%)	30–39	27,935 (–2.11%)	English	59,255 (–18.90%)	Territories	0 (–0.15%)
Total Protestant	55,129 (–14.77%)	40–49	2,217 (–14.84%)			BC	10,903 (–0.21%)
		50–59	0 (–13.97%)	German	6,470 (+1.29%)	PEI	919 (–0.25%)
No religion	497	60–69	0 (–9.00%)	Polish	3,766 (+1.26%)	Alberta	10,475 (–0.29)
Not stated	922	70+	0 (–5.72%)	Italian	3,033 (+1.22%)	Manitoba	9,508 (–0.33)
				Russian	1,038 (+0.20%)	NS	6,255 (–1.07%)
		Not stated	793	Spanish	50 (+0.02%)	Ontario	45,158 (–4.35%)
				Chinese	38 (–0.27%)		
				Japanese	2 (–0.19%)	Other	12 (+0.01%)
				Other	19,310 (+3.34%)		
				Not given	1,826		

Notes

n = 158,056.

Tabulated from data presented in Byers (2000: 104, 106, 108–109, 112–114); Statistics Canada (1999) *Historical Statistics of Canada,* Tables D86–106, A2–14, A164–184; and the Dominion Bureau of Statistics (1941) Classification of Occupations, Eighth Census, 1941.

A Those classified as part of the manufacturing industry.

B This industrial group also included those classified as "Insurance" and "Real Estate".

C This category includes "Electrical and Gas Utilities".

D The total British born refers only to those British subjects born outside of Canada, as those born in Canada were also legally British subjects.

policy drew on cultural beliefs regarding the racial superiority of the British people, and, as part of this, the need to limit the role of certain classes of peoples within Canadian society was stressed. As was noted by the Commanding Officer of Military District 11 which incorporated the province of British Columbia and the Yukon territory, "it would be very lowering to the prestige of the white race it they were to become the menials of the coloured races" (Department of National Defence 1940, DND letter October 10, 1940 cited in Roy 1978: 345). Greater fear existed outside of the military that forced conscription would demonstrate these minorities' service to the crown and to the state, and as such, could be used to argue against the racial and cultural barriers that excluded certain types of individuals from full citizenship rights under Canadian law. Of particular interest in this regard was the right to vote, as the Canadian Attorney General noted "if these men [we]re called upon to perform the duties of citizens and bear arms for Canada, it will be impossible to resist the argument that they are entitled to the franchise," while the Minister of Defence further pointed out that "the oriental vote would be deciding factor in a great many constituencies," and that Canada "would face the possibility of having Orientals in Parliament" (Department of External Affairs 1940 cited in Roy 1978: 342).

In 1943 policy did change to call some aliens for medical examinations, a precursor to full conscription, as a means of appearing to be applying conscription policy equally. However, internal policy noted that these individuals were not to be conscripted into the Armed Forces, since "voluntary enlistment did not give as compelling a claim to enfranchisement as did compulsory enlistment" (Department of Labour 1943a; Department of External Affairs 1941). As Roy (1978: 350) notes: "a few Chinese were able to volunteer and some became officers, but they were not recognized as full Canadian citizens." These policies were also borne out in data regarding the population of conscripted men, as the vast majority were "Canadian born" and only a fraction were of "Oriental" backgrounds (see Table 12.1).

The fact that conscription policy regarding aliens was kept secret fueled the development of negative sentiment towards these excluded social groups. As was reported in a meeting by registration officials, "a large number of letters ha[d] been received from people complaining that enemy aliens [we]re 'living fat off the land' while their sons and other relatives [we]re shedding their blood for the cause of freedom" (Department of Labour 1943c). In addition, protests developed across the country concerning employment rights for aliens, with the criticizm that these men should not have the right to hold good jobs, and arguing that these men should be discriminated against for choosing not to contribute to the "shared sacrifice" required of the "true" participants of Canadian society (see Department of External Affairs 1941; Department of National Defence 1941; Special Committee on Orientals Report cited in Roy 1978: 344).

The First Nations peoples were, in some regions of the country, also excluded from the registration process, and as a result there was significant complexity in the application of conscription policy within these populations. Before the registration days in 1940 government media messaging had stressed that these

peoples were not "real" Canadians and as such were not subject to registration or conscription (see *Chronicle* 1940). The legislation of the National Resource Mobilization Act of 1940, however, did not make this distinction, and neither did several of the local Registrars who were in charge of conducting the task of registration – particularly in the cases of those residing in the eastern provinces of the country. As a result of this confusion, the data regarding those who had been allowed to register were entered into the pool of available men, and this lack of consistency led to the conscription of First Nations peoples being differently applied across the country. Although many of the First Nations peoples chose voluntarily to serve in the Canadian Armed Forces, the issue of the legal and forced nature of conscription under the NRMA legislation was a different matter entirely (Department of Labour 1942b; Dickason 1992: 310; Stevenson 2001: 37–50). Registration was opposed by several Bands who saw the decision to go to war as an internal political matter that should have been negotiated between their leadership and the British Crown (*Crossfield Chronicle* 1943; *Globe and Mail* 1942). In the province of Ontario, arguments made by the First Nations peoples themselves, which stressed that they were still independent nations and were thus exempt from Canadian conscription laws, were rejected by judges hearing the cases of men charged with violating mobilization legislation. These legal losses resulted in some men being forcefully brought into service, but strong, coordinated political action, coupled with the tremendous cost of enforcing the legislation in the remote regions of the country, ultimately led to registration officials granting blanket postponements for all First Nations peoples, reclassifying them instead as "necessary" and protected "farmers" or under the "Not Acceptable for Medical Reasons" stipulation (Department of Labour 1943d; Adamson to MacNamara, March 1, 1943 in Stevenson 2001: 44). In the province of British Columbia, First Nations peoples who had been barred from registration suffered further problems when National Registration and mobilization identity documents became legally integrated into several aspects of Canadian society – as new enforcement legislation passed during the war made these documents necessary in order to hold legal employment or to gain access to a range of government services (Department of Labour 1943e). Ultimately, a prototype Status Card was developed to identify status-holding First Nations peoples as "Status Indians," and allowed them to prove that they had in fact complied with legislation and retained the legal right to employment and government services (Department of Labour 1942b).

As a result, National Registration and mobilization policies adopted during the Second World War worked to assert a particular social position for classified populations, including young men, the unemployed, "Oriental," First Nations peoples and aliens living within the country – not only asserting their separateness from those whom policy creators considered to be "real" Canadians, but also working to bar them from taking up certain performative expressions of Canadian citizenship and cultural membership.

12.4 Conclusions

This history of National Registration and ID-Cards, and their relation to the processes and legislation of conscription in Canada during the First and Second World Wars, points to three key drivers regarding the application of surveillance technologies. First, the international socio-political pressures placed on the government of Canada to supply men to the European fronts led the government to adopt domestically unpopular policies which involved the conscription of men and the need to assert forced performances within the domestic population based on the government's own national and international goals. Second, the history of workforce shortages and the importance of industrial production to the war effort required more strict involvement of government within the employment of labor if a state of "Total War" was to be achieved.

These two points themselves, however, do not fully explain the development of the highly complex and individualizing surveillance technologies used in Canada during the war years. Importantly, the classifications employed within the National Registration system did not solely take on the form of productive efficiency, as the selective granting of certificates of protection during the First World War and the emphasis of cultural classifications regarding "Orientals," First Nations peoples and others during the Second World War point to a third driver regarding the role of these technologies in governing the actions of individuals within Canada in the assertion of a particular social order or vision of what Canadian society should be. In this regard, the increased significance of questionnaire data, the detailed assessments performed by the Dominion Bureau of Statistics and the increased technological attention used in the identification of aliens, First Nations and Oriental populations expressed during the Second World War existed as a result of the need to govern not only the industry and manpower of the war effort but also the policy and technology designers' understanding of the cultural and racial hierarchy of Canadian society. In a system designed only for efficiency, race or gender would play no role in the question of who should be conscripted or who should manage a munitions factory.

In addition to the value of this research in expressing the drivers of surveillance and the governing nature of National Registration technologies in shaping Canadian society during the war years, this history also points to the importance of the classifications and rationalities that go into the production of any government ID scheme as it relates to the development of stereotyping profiles. Without the inclusion of questions related to racial background or cultural heritage, these classifications could not have been used to govern the behaviors of men and women or assert a particular cultural understanding of the identity of these classified populations. This, coupled with the government's acknowledgment that in order to restrict resistance the purpose of these programs needed to be hidden from the public, problematizes the uncritical taking up of any ID-Card or National Registration scheme and asserts the real need for parliaments to hold open, detailed and public debates regarding the development, implementation and function of these types of surveillance systems.

Notes

1 All men who were married after July 6, 1917 were still considered single for the purpose of military service.
2 As part of their immigration, the government of Canada had forfeited its right to call men from either the Doukhobor or Mennonite communities in exchange for their settlement of the lands of the Canadian prairies (see Order-in-Council PC 2747, December 6, 1898). Furthermore, Doukhobors were also considered to be a risk due to their perceived potential for anti-war activism.
3 Prior to 1947 citizenship in Canada was based on the internal legislation of the Immigration Act of 1910 and allotted differential rights to those born within the Dominion. This was done primarily to discriminate against those British subjects born in India and other British territories who should have retained equal rights under the British "principle of non-distinction" established under the British Nationality and Status of Aliens Act of 1914.

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13 From surveillance-by-design to privacy-by-design

Evolving identity policy in the United Kingdom

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13.1 Introduction

Few artefacts capture the history of surveillance better than an identity card. In fact, the process of establishing identity predates the card, where throughout history the registration of individuals was associated with citizenry (e.g. Pharaonic Egypt), imperialism (e.g. Rome's census in Palestine) and ownership (e.g. William the Conqueror's Domesday Book). Over time, portable documents held by citizens replaced the use of central registers (Torpey 2000).

With the rise of the nation state, identity cards became increasingly commonplace. So did identity checks. The query of 'your papers, please' now captures the public imagination as a key form of abuse of the powers of the state. This is particularly the case in countries that never established a long-standing identity card apparatus, including much of the English-speaking world and, of course, the United Kingdom (UK).

To many, identity policy is seen to be quite simple and a mere bureaucratic necessity. In reality, modern identity policy involves a complex socio-technical system. That is, an identity policy relies intensely upon technology, while it also alters the relationship between the individual and the state (Whitley and Hosein 2010b). This is not always a negative development, and, in fact, identity policy can be both empowering and protective while meeting the needs of state administration. At other times, however, the policies proffered may interfere with rights, rely on unstable or unreliable technologies, involve significant costs, introduce problematic politics and accomplish few of the stated objectives.

When the UK government proposed reintroducing an identity card in the early 2000s it was seeking to respond to administrative imperatives, but also to address pressing policy issues, including terrorism, crime, immigration and fraud. It sought to solve all these problems with a complex socio-technological system in a form that the world had not previously seen. It quickly developed a momentum that made it appear as though nothing could prevent the scheme from becoming a reality. It took significant countervailing forces, some intentional and some accidental, to disrupt the dominant narrative. This chapter presents how the latest attempt at introducing a UK identity card became part of history, rather than a determinant of the future of British society and governance.

13.2 A prehistory

The former UK government's proposals for identity cards were not the first instance of an identification programme in the country. During both the First and Second World Wars, Britain introduced a form of national identity card.

According to Agar (2005), the first-ever attempt at a national identity card and population register in the UK was a failure. The programme was introduced during the First World War as a means of determining the extent of the male population in the country. Existing government records were considered incomplete and ineffective for the purposes of developing a policy for conscription. Once the count was completed and the government knew how many men were available to serve, political interest in national registration and identification cards waned and the system was soon abandoned.

However, as Agar notes, the promise of a national identification system was not forgotten by the Civil Service, which during the Second World War reintroduced the idea of identity cards, primarily as a way of identifying aliens and managing the allocation of food rations.

> Crucial to the operation of the second National Register was its intimate connection to the organisation of food rationing. In order to renew a ration book, an identity card would have to be produced for inspection at a local office at regular intervals. Those without an identity card, would within a short period of time no longer be able, legally, to claim rationed food. This intimate connection between two immense administrative systems was vital to the success of the second card – they were not forgotten by members of the public – and provides one of the main historical lessons.
>
> (Agar 2005)

As identity cards became a facet of everyday life, they started being used for additional purposes (i.e. they were subject to 'function creep'), including identity checks by police officers. This use continued even after the war was over. Liberal-minded citizens eventually began to question these practices and, in 1950, one such citizen, Clarence Willcock, disputed the police's routine check of identity cards. Willcock's legal challenges were not successful, but in the case's written judgment Lord Goddard (the Lord Chief Justice) criticized the police for abusing identity cards. By 1952 Parliament had repealed the legislative basis for the national identity card and it disappeared from use.

13.3 The case of the national identity scheme: innovations in technology, identification and surveillance

As many observers have noted, including civil society groups (Privacy International 1997), the Civil Service and politicians have since been regularly captivated by the idea of reintroducing national identity cards in the UK with the aim of solving a diversity of policy problems, ranging from streamlining tax

administration to 'fixing' the immigration 'problem', among others. By the early 2000s they had tried again.

In 2002, the Labour government, under Prime Minister Tony Blair and with David Blunkett serving as Home Secretary, proposed a new national 'entitlement card' scheme. This proposal was then rebranded as a national 'identity card' scheme in 2004. Following failed attempts to pass the legislation, as well as a general election in the UK (in which the Labour Party was again re-elected to government) and a political and constitutional crisis in which the Upper Chamber (the House of Lords) kept returning the Bill back to the Lower Chamber (the House of Commons) due to various concerns, Parliament passed the Identity Cards Act 2006 on 30 March, thus enabling the first national identity card programme since the Second World War. By this point it had become a contentious piece of legislation, particularly on grounds of costs, technological feasibility and civil liberties.

This new scheme was different from previous ones in several important ways. The proposals called for a system of unprecedented size and complexity, comprising a centralized National Identity Register (the electronic database on which the population's identity data would be held) and the collection and recording of over 50 pieces of personal information from individuals, including most notably the collection and use of the biometric information on UK citizens and residents.

Moreover, a number of features distinguished this scheme from those in other countries. These features included the extensive use of biometrics both for enrolment (to ensure that no individual was entered in the Register more than once) and verification, the proposed use of a single identification number across government and the private sector (Otjacques *et al.* 2007), and an 'audit trail' that was expected to record details of every instance when an identity was verified against information stored on the Register.[1] Many argued that this was surveillance-by-design because of the extensive collection and use of personal information being proposed, as well as the expansive purposes for which the system would be used.

The successful implementation of the scheme would have required considerable organizational resources: technological expertise in the development of large-scale, secure databases, advanced computer chip technologies for 'smart' identity cards, arduous registration processes involving physical interaction with each resident thereby requiring office space and mobile registration facilities, sophisticated data-collection mechanisms to check people's 'biographical footprint' during the enrolment process, system integration skills to combine all the different aspects of the scheme, and specialist skills in biometric enrolment and verification.

Even after the difficulties and modifications to the programme during the legislative phase, the government's programme for identity cards went through various transformations after the Bill became law. The configuration of the National Identity Register, for example, underwent several changes. In its original conception, the Register was to be a brand-new, central store of data. The purpose of a new database was to ensure that there were no errors or fraudulent

identities being propagated into the new system. This changed in December 2006 when the Identity and Passport Service (UKIPS) – the sub-department of the Home Office responsible for implementing the scheme – released its *Strategic Action Plan* and set out a revised database schema for the Register. The idea was to separate the biographic, biometric and administrative information data and store them on different (logical) databases. The stated reasons for this segregation were to improve security and make use of "the strengths of existing systems" (UKIPS 2006: 10); however it could also be perceived as an attempt to reduce costs by reusing information and reducing resources.

The contentious aspects raised during the legislative process continued to affect the scheme as it moved into the development and implementation phases. In turn, the government's proposals for identity cards went through various other changes over the course of the scheme's life span, primarily motivated by concerns about managing costs and achieving observable successes to convince the public, industry, other government agencies and critics.[2]

13.4 A history of biometrics in the scheme

Of particular interest to the history of surveillance is the biometrics component of the scheme – the government's proposals for these technologies were visionary if not audacious. The collection of multiple biometrics, including digital facial photographs, fingerprints, irises and signatures, from tens of millions of citizens and foreigners (under a separate but related piece of legislation, the UK Borders Act 2007 (Warren and Mavroudi 2011)) had not been undertaken before as part of a national identity system. Another significant innovation was the plan for real-time, online biometric identification against a centralized, government-managed database. While other countries already operated their own national identity systems, the proposed use of these biometrics in this way – and on this scale – was something that had not been attempted before (Martin 2012).

Yet the history of biometrics in the scheme was, in a way, rather ambiguous and irregular. The government's plans for biometrics were never fully explicit or certain. For example, when the Labour government first proposed entitlement cards in a 2002 consultation paper, the use of biometrics was considered simply an 'option' within a much larger proposal for the entitlement cards scheme. The inclusion of biometrics was said to be ultimately dependent on the feasibility, cost-effectiveness and, importantly, public acceptance of the Home Office's proposals (Home Office 2002: 2).

Eventually biometrics became a key requirement of the proposed scheme, enshrined in the Identity Cards Act 2006, where the Prime Minister even justified the introduction of identity cards on the grounds that biometrics were now possible to process at this scale (Blair 2006). Throughout, however, the specifics around biometrics in the scheme would remain fuzzy. For example, the decision about which biometrics the government would use to identify citizens was never firm. It was deliberately technology neutral. While facial photographs were always considered the most viable and practicable option, they were not always

spoken about as 'biometric' and instead were sometimes treated differently, partly due to the fact that they were not perceived as particularly hi-tech as compared to other available technologies.

Digital fingerprinting, the most publicly recognizable biometric technology, was also subject to uncertainty in the government's plans. For example, the original thinking was to collect only four fingerprints from citizens. However, the number of fingerprints to be scanned was increased to ten – a policy decision that seemed as certain as any in the scheme until a leaked government document, made public by the campaign group No2ID,[3] revealed that the apparently settled policy for everyone to enrol all ten fingerprints was not necessarily set in stone. In a bullet point in the 'Options Analysis' document, unnamed decision-makers conceded that the "nature of the group(s) selected drives the requirement for the [biometrics] infrastructure (especially face vs. fingerprints)" (NO2ID 2008: 2). That is, the Home Office was considering the option of allowing certain social groups to avoid fingerprint enrolment. No2ID interpreted this disclosure as an "indication that dropping fingerprints is being considered for some groups. This blows apart the government's whole case for the identity scheme, which rests on 'biometrically securing' personal information and preventing multiple/fraudulent applications through biometric cross-checking" (see NO2ID's annotations in NO2ID 2008: 2).

Government officials regularly described iris biometrics as a future option because of its potential for uniquely identifying large populations, thus again providing a means for preventing multiple or fraudulent identities (Martin and Whitley 2013). Despite extensive claims in the parliamentary debate around the virtues of iris biometrics, the technology was never guaranteed to feature in the national identity scheme. This was despite many bold claims made by officials about what the programme was supposed to achieve – claims which many experts agreed were impossible without incorporating robust and scalable technology such as iris biometrics from the outset. For example, claims about effective one-to-many biometric searches using fingerprint records in a fully populated identity database were deemed far-fetched by experts, who argued that only iris biometrics were capable of performing on this scale (see e.g. the perspective of Professor Daugman in BBC News (2007)).

A final policy change relating to biometrics was the decision by the Home Office not to enrol biometrics in-house – that is, by establishing government-run registration offices across the country for people to come and submit their biometrics in exchange for a new identity card – but rather to look to the market for ways of outsourcing this function. This decision, publicized in 2008, was an apparent attempt to reduce the cost to the Home Office of recording people's biometrics, with the idea being that people would pay out-of-pocket to enrol their biometrics at high street locations such as the post office or pharmacies. This move to the market was never completed because the scheme was scrapped before the contracting processes were finalized. Still, the desire to seek out external organizations to assist with biometric enrolment represents an important event in the history of the identity card.

13.5 Politics, trust and public perception

It is also important to highlight the broader political developments that affected the scheme. Following the 2005 election, the leader of the opposition Conservative Party resigned. Michael Howard had been a strong proponent of identity cards when his party was in power and as Home Secretary he had also considered (but did not implement) a national identity card in the mid-1990s. Thus, when the Identity Cards Bill went through the House of Commons in late 2004 and early 2005, the opposition party did not make a concerted effort to fight it. In one famous moment, rather than vote for or against a version of the Bill at one stage in Parliament, he ordered the Members of Parliament from his party to 'go Christmas shopping', i.e. to absent themselves from the vote.

When Mr Howard announced that he was stepping down as leader of the Conservative Party, other members of the party began voicing stronger opposition to Labour's proposals for national identity cards. The Conservative Party's leadership contest ended up being between two strong opponents to the Bill: David Cameron (who, as a member of the Home Affairs Committee that had looked into the Bill, had previously spoken about his unhappiness with the policy, particularly the way it changed the relationship between the citizen and the state (Cameron 2004)), and David Davis (who was appointed as the lead member of the Opposition on the Bill in the Commons). With Cameron's election as party leader the Conservative Party position on the Bill became stronger. In one of his first interviews as party leader, he articulated his concerns about the Bill. Meanwhile, the third party of British politics, the Liberal Democrats, consistently held strong beliefs that the Bill was contrary to civil liberties.

In June 2005, a research group based at the London School of Economics (of which the authors of this chapter were an integral part) issued a detailed report that critically analysed the government's proposals (LSE Identity Project 2005). The LSE researchers suggested that the likely cost of the scheme was far higher than government estimates, evaluated the likely technology solutions and challenges in deploying these technologies, and identified focal points around the policy that would likely give rise to privacy and surveillance concerns. This led to widespread media coverage around these lines of criticism and most notably the costs of the scheme; while the parliamentary debate was fuelled by data and analyses from the LSE report.

Even once Parliament had formally approved the scheme and created the new Identity and Passport Service from the previous Passport Agency, the government's plans did not run smoothly. In July 2006, leaked emails from senior civil servants warning about ongoing risks to the scheme were published on the front page of a major newspaper (*The Sunday Times* 2006). Shortly thereafter, the new Home Secretary (the third in as many years and the third overseeing this policy) ordered a wholesale review of the plans for the scheme given worries that many parts of his department were 'not fit for purpose'. This review resulted in the *Strategic Action Plan* issued in December 2006 (UKIPS 2006) that sought to reduce the risks and costs of the scheme.

Another significant event that affected the government's plans was the announcement by the then Chancellor Alistair Darling, on 20 November 2007, that a data breach involving "personal data relating to child benefit" had arisen in Her Majesty's Revenue and Customs (HMRC) (20 November 2007: Column 1101–). On 18 October 2007, in response to a request from the National Audit Office (NAO) for data in relation to payment of child benefit, a civil servant at HMRC sent a full copy of the data on two password-protected compact discs, using an obsolete version of compression software with weak encryption. The discs were sent using the HMRC's internal mail service, operated by TNT. The package was not recorded or registered and failed to arrive at the NAO. When the requested discs did not arrive, a second set of discs was sent, this time by recorded delivery. These did arrive.

The original discs, containing details of all child benefit recipients – records for 25 million individuals and 7.25 million families – have still not been recovered. The records included the names of recipients as well as their children, address details and dates of birth, child benefit numbers, national insurance numbers and, where relevant, bank or building society account details.

Unsurprisingly, public trust in the government's ability to keep personal data secure was negatively affected by this news and the implications for the National Identity Scheme were widely reported. In addition, because of a parliamentary requirement for the scheme to report on costs every six months (negotiated at the final stages to permit the Bill to be approved by Parliament after the constitutional crisis to which it had given rise), the government's plans retained a far higher public profile than most e-government projects.

Detailed qualitative analysis of the press coverage of the scheme (Pieri 2009) reveals that this coverage was overwhelmingly negative. In particular, media coverage emphasized the many risks and problems the scheme was facing. This negative coverage was particularly significant, as it appeared alongside government-issued press releases that sought to highlight the benefits of the scheme to citizens and government alike.

With public opinion potentially playing such a leading role in the eventual success of the scheme, both the Home Office and No2ID conducted a series of opinion polls about public perceptions of identity cards.

The Home Office commissioned a series of studies examining public attitudes to the National Identity Scheme and identity cards by the Central Office of Information (UKIPS 2008). Six studies took place (February 2007, October 2007, January/February 2008, May 2008, August 2008 and November 2008) and involved adding questions to a general public omnibus survey. The questions were intended to elicit awareness and attitudinal data about identity cards and the scheme, and the questions covered topics such as awareness of identity cards, support for the programme, the reasons for introducing the identity system and proposed benefits (Whitley 2009). Support for the scheme in these samples remained statistically stable at around 60 per cent.

No2ID also organized a series of public opinion polls that it commissioned from ICM research. Its research asked the same question over time, namely:

'The government has proposed the introduction of identity cards that, in combination with your passport, will cost around £93. From what you have seen or heard do you think that this proposal is a … [good … bad idea]?' In contrast to the Home Office-sponsored research, this stream shows a decline in the net scores for the identity card scheme being 'a good idea', down from 81 per cent in December 2004 to less than 50 per cent in June 2008, with a sustained drop following the HMRC data breach.

13.6 A trust deficit in a surveillance state

The surveys by No2ID and the Home Office demonstrated low levels of trust in the government's plans to implement identity cards. In the run-up to the 2010 general election, opposition parties in the UK began to articulate the basis of their concerns with the government's identity policy as embodied in the National Identity Scheme and to build on the falling support for the government's plans. For the Conservative Party, the identity card scheme became part of a broader narrative that presented the government's policy as creating a surveillance state, a policy that needed to be reversed (Conservatives 2009). This reversal began with the belief that personal information belongs to the citizen, not the state, and where the government collects private details they are held on trust. As a result, the conservative logic was that the government must be held accountable to its citizens, not the other way around (Conservatives 2009).

In their election manifesto, this goal of introducing measures "to protect personal privacy and hold government to account" became an espoused part of the Conservative Party policy agenda, under the heading "Protect our freedoms":

> Labour's approach to our personal privacy is the worst of all worlds – intrusive, ineffective and enormously expensive. We will scrap ID cards, the National Identity Register and the Contactpoint database.
>
> (Conservative Party 2010)

The third major political party, the Liberal Democrats, also reiterated its long-standing opposition to identity cards. Their manifesto noted that:

> increasing use of sophisticated technology, whilst bringing undoubted benefits to society, also poses new threats to individual liberty, particularly in relation to Identity Cards. The Liberal Party opposes the introduction of any form of national Identity Card, whether voluntary or compulsory.
>
> (Liberal Democrats 2010)

By the time of the general election, every political party other than the Labour Party had included proposals to scrap identity cards as part of their election manifestos.

In the 2010 election, no single party won an overall majority and, after a period of negotiation and speculation about whether one party might try to

operate a minority government, a coalition between the Conservative and Liberal Democrat parties was announced. Perhaps unsurprisingly, a key feature of the joint 'Coalition Agreement', announced on 11 May 2010, was plans:

> to implement a full programme of measures to reverse the substantial erosion of civil liberties under the Labour Government and roll back state intrusion. This will include:
>
> - A Freedom or Great Repeal Bill
> - The scrapping of ID card scheme, the National Identity register, the next generation of biometric passports and the Contact Point Database.
>
> (Conservative Liberal Democrat coalition negotiations 2010)

The first piece of legislation introduced by the new Coalition Government ("Bill 1 of 2010–11") was the "Identity Documents Bill", which was "A Bill to make provision for and in connection with the repeal of the Identity Cards Act 2006". Passage of the Bill took longer than the government had anticipated (not least because of concerns raised by the Labour Party about possibly compensating those citizens who had paid for identity cards that were about to be revoked – by May 2010 14,670 cards had been issued). The Bill received Royal Assent on 21 December 2010, at which point identity cards ceased to have legal status. On 10 February 2011, Home Office minister Damian Green marked the end of the identity card scheme by feeding its drives into an industrial shredder in Essex (Mathieson 2011).

While scrapping the unloved national identity scheme and even physically grinding to dust key hardware components of the system provides an important symbolic moment in the short history of a surveillance-led identity policy, it does not resolve questions of how individuals can feasibly identify themselves in order to gain access to services. The challenge of an effective identity policy does not go away with a new government. In particular, government services still need to have confidence in the people with whom they are interacting, and citizens need to have trust in the identity system they must use to interact with government.

13.7 Realigning trust, policy and technology

When the Identity Documents Bill was introduced to Parliament at Second Reading, Home Office Minister Damian Green emphasized the role the Bill was playing in repairing trust:

> Scrapping the ID card scheme shows the clear intent of the coalition Government to roll back the intrusion of the state and to return personal freedom and control to the individual citizen. This Bill is a major step on that road. Bringing the Bill before the House at such an early stage of the new Government signifies the importance that we place on creating a free society and

> on cutting unnecessary expenditure. *The Bill is also about trust*. It is about the people having trust in the Government to know when it is necessary and appropriate for the state to hold and use personal data and it is about the Government placing their trust in the common-sense and responsible attitude of the people. The previous Government's ID cards scheme and the national identity register, which lay at its heart and which was its most reprehensible part, failed on both counts.
>
> (9 June 2010: Column 429; emphasis added)

As such, scrapping the existing identity card scheme was an important first step in repairing the trust lost between the citizen and the state. It acknowledges that trust was lost due to explicit policy choices made by the previous government (Gillespie and Dietz 2009). As such, it contrasts with the findings of many studies in which trust is lost because of the actions of rogue individuals or the failure of appropriate oversight and governance mechanisms (Colquitt and Rodell 2011).

As a result, more traditional trust responses such as external governance in the form of legislation and other regulatory mechanisms are unlikely to restore public trust precisely because the loss of trust arose due to a particular previous choice of legislation and other regulatory mechanisms.

Scrapping identity cards does, however, provide a starting point for rebuilding trust, echoing the first stage ("immediate response") of Gillespie and Dietz's (2009) four-stage process of organization-level trust repair. Their second stage, "diagnosis", was also found in the various election statements of the coalition partners – "personal information belongs to the citizen, not the state"; "increasing use of sophisticated technology … poses new threats to individual liberty".

Indeed, a key element of the diagnosis can be traced back to a critical report written by an external adviser to the UK Treasury, Sir James Crosby (2008). Sir James was appointed by the then Chancellor Gordon Brown, who was believed to be critical of his own party's policy on identity cards. Crosby's report could have allowed Brown to restructure his government's identity policies upon (eventually) taking over as Prime Minister from Tony Blair.

Crosby's report focused the issue away from 'ID cards' and the arising 'identity management' discourse and instead referred to 'identity assurance'. His choice of terminology was deliberate. The final report notes that:

> At an early stage, we recognised that consumers constitute the common ground between the public and private sectors. And our focus switched from 'ID management' to 'ID assurance'. The expression 'ID management' suggests data sharing and database consolidation, concepts which principally serve the interests of the owner of the database, for example the Government or the banks. Whereas we think of 'ID assurance' as a consumer-led concept, a process that meets an important consumer need without necessarily providing any spin-off benefits to the owner of any database.
>
> (Sir James Crosby 2008: 3)

Crosby believed that the distinction was fundamental, as an identity policy "built primarily to deliver high levels of assurance for consumers and to command their trust has little in common with one inspired mainly by the ambitions of its owner" (Sir James Crosby 2008: 3).

Acknowledging past mistakes (even those that can be blamed on previous ministers, officials or government) might help regain the trust citizens have when interacting with government. However, a second trust relationship is implicated in an identity policy, namely that of the state trusting the citizen, and for this further work is required. Moreover, the design of the reforming interventions (Gillespie and Dietz 2009) is constrained by the consequences of earlier parts of the trust repair process. The coalition government is constrained by the decisions to scrap the national identity scheme and not to rely on large-scale centralized databases of citizen information held and potentially monitored by the state. The next section therefore describes how the government's identity assurance programme seeks to enable trusted online transactions that regain citizen trust in the UK government's identity policy.

13.8 Identity assurance in the UK: 2010 to the present

The government's identity assurance programme provides a radically different solution to the question of how the state can trust the identity claims of its citizens. Given the policy decision not to rely on centralized databases of citizen data and the avowed approach to make identity policy benefit the citizen in the first instance, the government's trust repair processes involve a complex interplay of institutional perspectives on risk, citizen-centric approaches to data management and technological measures to ensure that citizen trust is upheld.

In terms of institutional perspectives on trust and risk, the previous government's identity policy was based on trusting a "gold standard of identity" (Baroness Scotland, 16 November 2005, Column 1167) in the form of relying on the details stored on the National Identity Register. In contrast, the identity assurance programme's alternative mechanism is based on the decision to take a transactional viewpoint of services based on distributed delivery models (Cabinet Office 2012a). This alternative approach to the secure delivery of online public services (Cabinet Office 2012a) has two key features. First, it explicitly empowers risk owners in government to make risk-based assessments about all aspects of the process. That is, rather than providing a single, biometric-based solution for all government identity claims, the new approach encourages each government department to make its own risk-based decision about what identity evidence it will accept. The second feature of the approach is the acceptance of distributed delivery mechanisms. In particular, this means that the government recognizes that there may be a range of different identity credentials that could be used to access government services. In order to make this process manageable for all parties, the Cabinet Office is adopting a guiding role in specifying a range of risk options from which government departments can choose, using its technical expertise to ensure that identity credential providers can be trusted to deliver

services at levels of assurance that match the possible risk options chosen by government departments (Cabinet Office 2013). This approach allows government to benefit from economies of scale while providing a standard marketplace for identity services – a marketplace that the government has vowed not to enter as an identity provider.

In this way, rather than having individual government departments building their own individual identity systems or requiring all government departments to rely on a single point of trust about identity claims, the new approach requires departments to make a risk-based assessment of the level of assurance it requires for its identity claims (thus, an identity claim to request information about public services is likely to require a different level of assurance to an identity claim about receiving social security benefits). A market of identity providers will then offer credentials to citizens that support different levels of assurance and hence allow access to different government services.

Given the concerns about government creating a surveillance society, a key feature of the technological implementation of the identity assurance programme is the use of sophisticated cryptographic techniques. These techniques enable the reliable use of identity credentials to access government services without the identity provider knowing which government service the citizen is using (to prevent private sector surveillance of government interactions) and without the government service knowing which identity provider was supporting the particular identity claims (to avoid similar government-based tracking of individuals).

A third distinctive feature of the identity assurance programme is the central role played by a specially formed Privacy and Consumer Advisory Group. This group, consisting of key members of civil society with an interest in identity policy including No2ID, academics including researchers from the London School of Economics, consumer groups and regulators (namely the Information Commissioner's Office), has developed a series of citizen-focused privacy principles (Cabinet Office 2012b). These principles are being used to guide the activities of recently appointed identity providers so that the identity assurance programme regains the trust of citizens in the new identity policy.

13.9 Conclusions

While the outcomes of this new policy direction are still unknown, the episode of the national identity scheme shows that surveillance technology developments are not inevitable – that resistance (Martin *et al.* 2009) and policy redirection are not mere theoretical possibilities, but achievable in practice. The short-lived history of the latest iteration of national identity cards in the UK is an important story of government surveillance aspirations and policy failure in which the vision of a nationwide biometric identity system proved not to be a foregone conclusion. Tony Blair was gravely mistaken when he argued that identity cards "were an idea whose time has come" (*Daily Telegraph* 2005), at least for the UK. History has clearly proven otherwise. We hope that this history inspires others to engage similarly problematic policies, across Europe and beyond.

Notes

1 This requirement for a personal audit trail would prove to be particularly controversial among activists, who viewed it as a dangerous tracking device.
2 For a more extensive history of the national identity scheme see Whitley and Hosein (2010a: chs 3–4).
3 No2ID is an independent campaigning organization opposed to identity cards and "the database state".

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Afterword

Conceptual matters – the ordering of surveillance

Gary T. Marx

> I hope you do not assume yourselves infallibilitie of judgement when the most learned of the apostles confesseth that he knew but in parts and saw but darkly through a glass.
>
> Sir Richard Saltonstall

This volume is a most welcome factual cornucopia and even a kind of atlas informing us of rarely documented topics from the colonial identification policies of Belgium to the latest privacy-by-design policies of the UK. When editors Boersma, Van Brakel, Fonio and Wagenaar asked me to write an afterword, I was pleased because of the importance of the topic and the scarcity of historical work, but I was also apprehensive because of the vastness of the topics covered. What could possibly be added in a succinct fashion that would do justice to the sweeping and twirling contours of history and to the varied techniques, uses, contexts, outcomes, national cultures and disciplinary perspectives the book offers? What themes could unify this farrago? But fortunately, as the Bible wisely instructs, "It shall be given you in that same hour what ye shall speak" (Matthew 10: 19). And so it was. Almost at once the problem became having too much rather than too little to say.

The chapters in this volume, in drawing upon history, sociology, political science and law, richly describe the variation in surveillance (whether across centuries or only recent decades) for 11 countries and help avoid the creeping myopia and unwarranted ethnocentric generalizations that disproportionate research on Anglophone countries brings. These histories show variation as well as commonality. The former cautions us against making unduly sweeping generalizations, even as the latter calls out for ordering that which makes so much ordering in the modern world possible.

But however important it is to get empirical, facts without a conceptual structure are like Jello without a mold. As we see great variety in the ordering of modern surveillance, the multiplicity of practices and ideas that encompass the broad notion of surveillance need to be abstractly ordered within conceptual frameworks. To be sure, the editors' introduction to the volume and the informative general chapters by Higgs and Lyon deal with very broad factors that help

locate the data, but these are in narrative form. Important sensitizing concepts such as surveillance society, the new surveillance, surveillance assemblage (Haggerty and Ericson 2000), social sorting (Lyon 2003) and sousveillance (Mann *et al.* 2003) are the same. Yet an additional approach focusing on concept definition and measurement can bring greater precision to the discussion and can offer another way of knowing.

Coming to terms

The empirical needs to be parsed into elements that can be systematically measured. Going beyond the description of a narrative permits more logically derived and empirically informed answers to big questions such as where society is headed and in what ways this is good and bad. This also permits replication across observers and makes possible the development of guidelines for studying the topic.

In what follows, I briefly consider some aspects of conceptualization, and illustrate one form with respect to the big questions regarding implications of surveillance developments for the dignity of the individual and a democratic society. I then draw some lessons consistent with the chapters in this volume for advancing surveillance research.

In recent work I have suggested an encompassing framework for thinking about how and why *surveillance is neither good nor bad, but context and comportment make it so* (Marx forthcoming, 2011a, 2007, and related work at www.garymarx.net). The basic structures and processes of surveillance must be named and their correlates discovered. This involves a conceptual map of new (as well as traditional) ways of collecting, analyzing, communicating and using personal information. One part of this identifies attributes (structures) such as the role played (e.g. agent or subject); the rules governing information (e.g. voluntary or involuntary collection); characteristics of the tool and its application (e.g. visible or invisible); qualities of the data (e.g. sensitive, unique identification, private); goals (e.g. control, care, curiosity); and mechanisms of compliance (e.g. coercion, deception, engineering, contracts). Another part locates basic processes such as surveillance phases and cycles, the softening of surveillance, and neutralization and counter-neutralization efforts.

Much disagreement in the surveillance debate is about what the varied empirical contours mean in some overall sense for the individual and society –whether involving the state (as the chapters in this volume do), hybrid public–private forms or corporate and interpersonal uses. At the extremes are the utopians with their cotton candy promises and the dystopians with their gloomy disaster predictions – whether these apply to the latest widget or practice, or to long-term trends. Neither perspective describes social change well – whether in the past or, I suspect, for the near future.

There is a path, however, twisting, changing and bramble and illusion filled somewhere between Tennyson's early nineteenth-century optimism – "For I dipt into the future, far as human eyes could see, saw the world, and all the wonders

that would be" (Ricks 1990) – and Einstein's twentieth-century worry that technological progress can become like an axe in the hand of a pathological criminal (Folsing 1998).

Improved conceptualization and subsequent measurement can result in more logically derived and empirically informed answers to big questions such as: what are the legacies of an authoritarian past and where is the surveillance society of control and care headed? Over decades, scores and even centuries, is there a move towards a uniform world surveillance society driven by a common ethos, problems and technologies with a decline in the local distinctiveness documented by the chapters in this volume?

It is possible to construct answers to the 'where is society headed' and comparative cross-national, cross-contextual and cross-temporal questions that go beyond speculation. By way of illustration, I will apply one element of the above approach in the hope that it can better document broad societal directions and the concerns for dignity, equality, justice and democracy that underpin much of surveillance studies research.

The four questions

To get beyond the rhetoric, four important questions regarding broad historical patterns in the treatment of personal information need to be considered:

1 What is the ratio of what a technology is capable of to how extensively it is applied? (*surveillance slack ratio*)
2 What is the ratio of what is known (and to how many and what kinds of others) about a person versus the absolute amount of personal information potentially available? (*personal information penetration ratio*)
3 What is the ratio of what individuals wish to keep to themselves versus how able they are to do this given the technology, laws and policies? (*achieved privacy ratio*)
4 What is the ratio of what superordinates know about subordinates to what subordinates know about superordinates? (*reciprocity–equity ratio*)

These questions are central to a consideration of privacy concerns and limits on others' access to personal information. Equivalent questions may also be asked (but rarely are, at least in surveillance studies) about the ability of individuals and groups to *publicize* information within, or across settings and time periods, and to the interrelations of the rules regarding both subjects and agents with respect to seeking, offering and withholding information (Marx 2011b).

Surveillance slack: the size of the gap between what a technology is capable of doing and the extent of its application varies over time. The slack was low in the Middle Ages when technology was relatively weak but there were few restraints on rulers applying what they had. Conversely, consider situations of high surveillance slack, perhaps where technology is very powerful, but there are

significant restraints on applying it, for example, content wiretapping for domestic criminal prosecutions. Both of these pictures contrast with situations in contemporary authoritarian societies where the technology is strong and the restraints on its applications (as well as on non-hardware forms of informing) are few.

The *personal information penetration ratio* (what may be known given the means of discovery relative to what is actually known) was probably much smaller in the nineteenth century and in the medieval period than today. The weakness of the technology then was matched by the fact that there was much less to know about the individual's behavior (given a less differentiated society and greater homogeneity in ways of living apart from greater power of the technology), even if those in authority were less restrained in using their power to discover it.

However, new tools (including formal record keeping) and changes in societal scale, density, mobility, differentiation, specialization, writing, language and communication vastly increase the quantity of information. Having large amounts of information available as a kind of raw material fits well into a society where most things are marketable. It also raises questions about where the outer limits on treating the personal as a commodity are, or ought to be. While people had less personal information to protect in the past, they also perhaps had less reason to protect what was there, at least within the small village. When personal information becomes something to be bought and sold, its value (and a desire to control it) may increase for both subjects and agents. Thus, comparing preindustrial, industrializing and contemporary societies, in absolute terms, the amount of personal information that is potentially knowable would seem to have increased markedly but with varying degrees of surveillance penetration of that information.

Moving to the *achieved privacy ratio* (no. 3 above), apart from the *amount*, there is also the *content* of information individuals seek to and/or are able to protect. This of course connects to tools and rules, and to what surveillance agents desire to know, or not to know, about people and organizations. Do people overall today have, or want, to hide or communicate more than in the past, and how is this need or desire conditioned by the nature of the information? How well are the preferences realized in practice? To what extent do agents honor the legitimate preferences of their subjects? What is the fit between the preferences of subjects and agents?

With respect to question four regarding trends in the extent of reciprocal knowledge, we can identify three broad possibilities of particular interest, using as an example access to or denial of information for government and citizens relative to each other.

1 The ratio of what government knows about citizens to what citizens know about government increases (government knows more and more about citizens who know less and less about government).
2 The ratio of what is reciprocally known by the parties stays about the same even as it bounces up and down within moderate limits.

3 The ratio of what government knows about citizens to what citizens know about government declines (governments knows less and less about citizens who know more and more about government).

The same alternatives fit any two party relations such as workers and managers, consumers and merchants or parents and offspring.

The first option characterizes totalitarian and authoritarian societies. The third option may seem preferable, but would be organizationally impossible and severely dysfunctional given societal interdependence and legitimate welfare and security goals. From the standpoint of classic democratic theory the ideal state is somewhere in the middle. However, this leaves blank the question of the degree and type of reciprocity. This will vary depending on current events such as major crises and threats, the type of information, and the context and roles played.

Some meta-method moral mandates

A concluding note should bring some summation that transcends the individual cases and binds them into something larger than the sum of the individual chapters. Apart from the specifics of each case, this book wonderfully illustrates some broader points about how the understanding of surveillance can be improved. But there are other lessons as well. Facetiously, I state these in the form of moral imperatives for scholars, practitioners, and informed and affected citizens. These are illustrative of a longer list (Marx forthcoming).

1 Attend to beginnings (or at least prior circumstances)

The chapters here broaden the tableau of what is to be understood. They relativize the present which often looms so large in our consciousness that we fail to ask where it came from and to realize that other outcomes may be possible.

2 View surveillance as a process not an outcome

Awareness of the social, cultural and historical roots of whatever is of interest in the present reminds us to go with the flow of events and to see and seek interconnections. The process may be viewed sequentially across a given surveillance application as with a particular drug test application or over longer time periods with the appearance and changes in legislation and policy, as with ID policy in the United Kingdom or the draconian measures in authoritarian countries.

3 Study surveillance practices as interaction processes over varying time periods

Subjects and agents of surveillance need to be viewed in interaction, rather than as isolated elements. Surveillance settings involving conflict tend to be dynamic and have a ‘no final victory’ quality. Innovation, atrophy, entropy, neutralization,

escalation, evolution, devolution, contraction, displacement and border changes must be understood. Appreciate the creativity and choices actors make, but also the limits of the situations in which they find themselves. Be aware of how exogenous influences are affected by and affect those that are endogenous, as well as how technical and social factors may influence each other.

4 Recognize that some things change and others stay the same

Start by locating the broad constants and constraints found in any surveillance context and within these the major areas where variation in form and process can be identified. Be aware of the differences (and challenges) of determining changes in degree and in kind. Some new surveillance developments are in fact qualitative, revolutionary, deep lying and fundamental, while others are quantitative, minor and superficial.

5 Identify variation and then look for causes/drivers that might explain it within a framework of soft determinism

Don't automatically associate correlation with causality or aggregates with individuals. Samuel Johnson (1734) warned against mistaking "subsequence for consequence." Be aware of the many ways in which correlations are often *faux amis* when the game is explanation. Realize that probabilistic statements that may be made with great accuracy at aggregate levels need not apply to inferences about any given case. Aggregate profiling is contentious when it encounters ideas of justice and individualized treatment.

6 Be attentive to kinds of causation and levels of analysis

Causes exist at many levels. In popular understanding, the reasons people give for their behavior are often seen to be sufficient as explanations. But what individuals say generally does not exist within a context that the individuals have chosen, or are necessarily aware of. A focus on the broader, prior factors in a surveillance setting (its nature, history, culture, law, attributes of the technology) calls attention to different levels and questions within which individual beliefs and motives are found.

7 Appreciate the advantages of a loose systems approach with some open-ended borders

This offers a way to take account of both structure and process. This helps avoid the simplistic determinism and reductionism that can come from over-emphasis on a given causal factor. But do not make the mistake of concluding that therefore all causes are equal in their importance even if they impact each other. Nor should identifying primal variables lead us to deny feedback, reciprocal and unique historical influences so central to the process view that characterizes most of the book's chapters.

8 Neither a pessimist nor an optimist be, in the absence of good data and a well-developed argument that defines its terms

Don't let unanalyzed fears and hopes confound the analysis of the empirical record or prevent realistic assessments of what is possible. Keep distinct statements about the world as it now is from predictions or descriptions of what may happen in the future. Beyond attention to demonstrated evidence and causal links, attend to buried assumptions and frames of reference, evidence and values.

9 Differentiate facts from values

Keep them separate, even while remaining mindful of their interweaving, and the importance of values and passion in social inquiry. The findings of social science need to encounter the assumptions of ethics and law. Distinguish judgments based on ideal standards from those comparing known societies and actual behavior. This requires asking not only how one society or institution compares to others but how close or far it is from the ideal. No matter how sound the method or clear the findings, a leap to values, ethics and political choices always remains in what we come to see as facts and in the ends for which a tool is used. But inform value positions by examining their empirical assumptions and the frequent presence of trade-off-bearing ironies. However, in spreading humility and appreciation of the complexities, do not become an academic eunuch nor a legitimator of the status quo – absent empirical, logical and moral analysis.

10 Ask about the appropriateness of both means and ends

Desirable ends do not justify doubtful means, and good means can be misused. Good goals and purity of motives are not sufficient justification. Consider the acceptability of means and ends independently, as well as in their relationship to each other. Recognize that a given tool can serve a variety of goals and that a given goal can be met by a variety of tools.

11 Speak and listen to strangers and carry a big tool kit

The strangers may be from other disciplines, organizations or contexts. The advancement of knowledge is not well served by specialized scholars speaking in code only to their tribe about the narrowest of contemporary issues in their country. The knowledge from the many strands of surveillance inquiry need to be better integrated.

This Afterword began with a quote from Sir Richard Saltonstall, an early English colonist in Massachusetts. His observation does proud the sociologist of knowledge and the psychologist of perception, and speaks of the need for humility, and even skepticism, in the face of variability, fluidity, complexity, dissimulation and fallibility, and the miniscule part of reality any of us can directly know.

All looking occurs of course in parts and with varying degrees of illumination. Whether peering through the looking glass, or looking at those who use it, modern social science is more likely to encounter haze than darkness. Nonetheless, as the chapters in this volume demonstrate, social science illumination will be greater to the extent that the above imperatives are followed.

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