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Secrecy reigns at the EU's Intelligence Analysis Centre

by Chris Jones

The Centre's reports are widely distributed within the EU and have a direct bearing on political decision-making despite an alarming lack of operational transparency and democratic accountability.

The EU Intelligence Analysis Centre (INTCEN) is the most recent name for an institution that has existed in a number of forms since 1999. It monitors events both inside and outside the EU in order to provide “intelligence analyses, early warning and situational awareness” to EU institutions and Member States in the fields of security, defence and counter-terrorism. While it remains relatively small and lacks a clear legal basis, the agency’s size and remit have expanded over the years. INTCEN’s work often influences political decision-making, raising questions over whether the secrecy surrounding the institution’s work is acceptable.

History of INTCEN

INTCEN became part of the European External Action Service (EEAS) in 2010, but has a far longer history. Its origins, as “a structure working exclusively on open source intelligence,” lie in the Western European Union (WEU), an intergovernmental military alliance that officially disbanded in June 2011 after its functions were gradually transferred over the last decade to the EU’s Common Security and Defence Policy. [1]

The exact date that INTCEN’s predecessor organisation began its work within the WEU is unknown. With the establishment of the European Security and Defence Policy in 1999 it was transferred to the EU along with the EU Military Staff (EUMS) (the EU’s “source of military expertise” [2] which is responsible for organising “concepts, doctrine, capability planning and capability development including crisis management exercises, training, analysis and lessons learned.”) [3] Some years later, the EUMS Intelligence Division began to work with INTCEN. It should be noted that any forces directed by EUMS in exercises or operations are seconded to it from EU Member States.

In 2002 INTCEN’s predecessor organisation was established as a directorate of the General Secretariat of the Council and given the name of Joint Situation Centre or SITCEN. At this point it began to move beyond the collection and analysis of open source information. Staff from seven Member States’

intelligence services were seconded to the centre and began to exchange sensitive intelligence as part of an “insiders club” made up of intelligence analysts from France, Germany, Italy, the Netherlands, Spain, Sweden and the UK. [4]

In the years to come, the centre’s remit and intelligence sources gradually expanded. In 2004 Member States were encouraged to share information, intelligence and assessments on internal threats – “internal security, intelligence investigations, border surveillance and crisis management” – and in 2005 an “intelligence capacity on all aspects of the terrorist threat” was developed through the formation of “a special counter-terrorist unit...within the Civilian Intelligence Cell.” [5] This is based on intelligence shared by the Counter Terrorism Group (CTG), an inter-governmental structure that lies outside EU frameworks and an offshoot of the Club de Bern. It is made up of the intelligence services of EU Member States, as well as Norway and Switzerland, according to William Shapcott, former SITCEN director. Questioned before the UK House of Lords in 2010, Shapcott said that the Club was “originally intended for counterintelligence – all the classics: counterintelligence, countersubversion and counterterrorism – and it sort of farmed off counterterrorism when the CTG was created.” [6]

In 2007 the centre’s ability to analyse situations outside the EU was strengthened by the establishment of the Single Intelligence Analysis Capacity (SIAC), which pools civilian intelligence with that obtained by the EU Military Staff’s Intelligence Division. SIAC provides “intelligence input to early warning and situation assessment” as well as “intelligence input to crisis response planning and assessment for operations and exercises.” [7] The EU Military Staff was transferred to the EEAS in 2010 at the same time as SITCEN, although the institutions themselves have not been merged.

Legal basis

The legal basis of INTCEN remains unclear. According to a 2009 report by Jelle van Buuren, at the time a researcher for the Dutch Eurowatch Institute (*Stichting Eurowatch*), the decision to

ITALY: “Open-ended emergencies” three years on see page 9

Perfidious Albion: Cover-up and collusion in Northern Ireland see page 14

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transfer the organisation from the WEU to the General Secretariat of the Council “was not made on the basis of a Council Decision but on the initiative of Javier Solana.” This, van Buuren argues, means that:

SITCEN [as INTCEN was known at the time] enjoys political endorsement from the Council but no formal legal legitimacy as the Council did not formally adopt a legal act for its establishment as an EU agency. Nor is there a publicly available document with a clearly stated mandate or a similar constituting document.[8]

The lack of formal legal basis or a constituting document was put to the EEAS by *Statewatch*. A spokesperson, Michael Mann, responded:

The EU INTCEN is not an Agency but was at the time part of the Secretariat General of the Council and was subject to the administrative autonomy of that Secretariat. Pursuant to the Establishment Decision of the EEAS... it has been transferred to the EEAS.

This avoids answering the question. The Decision establishing the EEAS does not contain provisions formally establishing INTCEN rather it simply notes that all of SITCEN’s staff and functions will be transferred “en bloc” to the EEAS, with the exception of SITCEN staff “supporting the Security Accreditation Authority.” [9] Refusing to provide the centre’s constituting document – or even saying whether one exists – serves to reinforce the assumption that there isn’t one. Asked for a document outlining INTCEN’s mandate and purpose, the EEAS provided the “EU INTCEN Fact Sheet” which contains only basic information on the centre and its work.

As regards the ability of the General Secretariat of the Council to establish bodies of its own accord, the rules governing the Council at the time Solana decided to bring INTCEN into the fold make no mention of “administrative autonomy.” The rules do state that “committees of working parties may be set up by, or with the approval of, Coreper [the Committee of Permanent Representatives of the Member States], with a view to carrying out certain preparatory work or studies defined in advance,” [10] although the role of the Joint Situation Centre clearly seems to indicate that it could not be considered a committee or working party.

A document issued by Solana on the establishment of the centre makes no mention of any legal basis, although it does demonstrate the degree of personal autonomy he held. “I am implementing a number of structural and procedural changes within the Council Secretariat,” he declares, “intended to enhance its capacity to properly analyse, exploit, protect and distribute sensitive intelligence material made available by Member States.” [11]

The only mention made of legal provisions relates to the need for:

High standards of security being maintained, in line with the requirements of the Council Decision of 19 March 2001, due to enter into force on 1 December 2001 [adopting the Council’s security regulations]... Secure handling arrangements will be put in place to ensure that assessments are distributed securely and appropriately within the Secretariat.[12]

It would therefore seem that INTCEN continues to lack any formal legal basis, but retains “political endorsement” from EU and Member State institutions.

The present day

It was not until 2012 that SITCEN was restructured and renamed INTCEN. According to the INTCEN Fact Sheet, its main functions are to:

- “Provide exclusive information that is not available overtly or provided elsewhere”;
- “Provide assessments and briefings and a range of products based on intelligence and open sources”;
- “Act as a single entry point in the EU for classified information coming from Member States’ civilian intelligence and security services”;
- To “support and assist” the presidents of the European Council and Commission “in the exercise of their respective functions in the area of external relations.”

Ilkka Salmi, former head of the Finnish security service the Suojelupoliisin (which deals with “counterterrorism, counterespionage and security work”), [13] holds the post of director, a job that reportedly earns him €180,000 a year. [14] Salmi answers to Catherine Ashton, head of the EEAS and also High Representative of the Union for Foreign Affairs and Security Policy. His predecessor was William Shapcott, a former UK Foreign and Commonwealth Office diplomat who is now the Director-General for Personnel and Administration at the General Secretariat of the Council of the EU.

INTCEN currently employs 67 people, out of approximately 3,500 employed by the EEAS in total (1,500 at its headquarters and 2,000 in EU delegations overseas.) There are two main divisions within INTCEN. The Analysis Division has 47 staff split into sections based on geographical and thematic topics, and provides “strategic analysis based on input from the security and intelligence services of the Member States.” The General and External Relations Division has 15 staff and deals with legal, administrative and IT issues and undertakes open source analysis. Ilkka Salmi and four staff working directly for him make up the remaining five.

INTCEN’s human resources are small in comparison to other intelligence services. The UK’s MI5 - to take one of the bigger, if not the biggest - EU Member State intelligence service employs 3,800 people “about two-thirds” of which undertake “the main investigative, assessment, policy and management work.” [15] However, INTCEN has grown considerably in recent years. In December 2010 the *EUobserver* reported that the centre had “a team of 15 analysts, soon to be expanded to 21.” [<http://euobserver.com/institutional/31541>] This would indicate that the number of staff working on analysis has more than doubled in the last two years.

Who gets information?

According to the head of the EEAS, Catherine Ashton, reports and briefings are provided primarily to her own office, but also to EEAS senior management, the Commission, and EU Member States’ representatives in the Political and Security Committee, which allows them to be disseminated further into national state bureaucracies. Europol, Frontex and Eurojust also receive intelligence reports produced by the centre. [16] “The need-to-know principle applies,” says Ashton, “as well as the proper security clearance.” [17]

A recent agreement between the Parliament and the Council allows access for vetted MEPs to classified documents (marked RESTRICTED, CONFIDENTIAL, SECRET or TOP SECRET) held by the Council to do with “matters other than those in the area of the common foreign and security policy, which is relevant in order for the European Parliament to exercise its powers and functions.” [18] Those granted access must be approved as “having a need-to-know by the relevant parliamentary body or office-holder,” have the appropriate security clearance, and have received instructions on their responsibilities for the protection of information.

Also under discussion is an updated agreement on access for MEPs to classified information in the field of the EU’s common foreign and security policy (CFSP); current rules date back to 2002. CFSP is an area which more directly concerns the work of

	SA	SR	IS	RA	Total
Africa	11	13		4	28
Asia	11	7			18
Middle East and North Africa	23	25	2		50
West Balkans / CIS*	28	9	6	2	45
Counter Proliferation	5	8			13
Counter Terrorism	13	2			15
Global Issues / Latin America	8	1			9
Total	99	65	8	6	178

SA: Situation assessment: medium/long term strategic assessment of a given country, region or topic

SR: Special report: short to medium-term assessment focusing on an issue within a broader topic. It can be produced in reaction to an important event, upon request from a client/consumer or at the initiative of EU INTCEN.

IS: Intelligence summary: compilation of news commented by intelligence analysts. Aims: situation awareness and detection of medium-term or strategic trends.

RA: Risk assessment: it focuses on risks to EU personnel on the ground.

* Presumably the Commonwealth of Independent States, a regional organisation made up of former Soviet Republics.

INTCEN, and this is reflected in the most recent draft text, the purpose of which is to set out “provisions governing access by the European Parliament to classified information held by the Council and the European External Action Service in the area of CFSP, including the Common Security and Defence Policy.” [19] In both cases, while access to classified information has to a limited extent been extended, the practical effect in terms of increased accountability is extremely limited, as will be discussed below.

What kind of information?

The types of report produced by INTCEN differ. Situation assessments, updated every six months, are “long-term strategic papers, mainly based on intelligence.” Special reports provide “either follow-up of a crisis or an event, or a thematic paper focusing on a specific topic of current interest.” Intelligence summaries are focused on “current important events with a short intelligence based analysis,” and risk assessments, which are updated every six months, focus on “risks for EU personnel in a given country.” [20]

According to INTCEN:

Analytical products are based on information provided by Member States’ security and intelligence services, open sources (media, websites, blogs etc.), diplomatic reporting, consular warden networks, international organisations, NGOs, Common Security and Defence Policy missions and operations, the EU Satellite Centre, visits and fact-finding missions. [21]

Information used in assessments is apparently also received from “all relevant departments within the Council, Commission and the EEAS including EU delegations.” However, according to van Buuren, the centre “does not work with raw intelligence or operational information.” Michael Mann, a spokesperson for Catherine Ashton, confirmed “this is still the case.” [22] According to William Shapcott, referring to the work of INTCEN’s predecessor, SITCEN:

The information shared with us is generally not designed to help with that sort of [urgent] warning. SITCEN can write a

respectable analysis of the overall threat in Europe and the types of features that it has, but it will not help you much in judging what next week’s threat in Paris or London will be. There are other people better placed to do that.[23]

There are clear limitations to INTCEN’s intelligence-gathering and analysis role. The intelligence and security services of all Member States are asked to provide information but, as Ashton said, “contributions depend on the availability of intelligence in the Member States’ services and the willingness to share them.” [24] Member States are not obliged to provide INTCEN with information or intelligence, leaving INTCEN subject to the whims of various Member State agencies. Nevertheless, it is clear that the centre still views its work as being highly sensitive.

Secret, confidential, and restricted

In July, *Statewatch* requested a list of all documents produced by INTCEN during the first six months of 2012. Producing lists of documents upon request is accepted as common practice at the Council of the European Union, which has faced court cases and complaints to the European Ombudsman in the past over its failure to do so. It was therefore presumed INTCEN would provide such a list.

The centre was not forthcoming. “There is no such document available,” said the response. “You will easily understand that, in this particular case, information on the mere existence of a document produced by the EU INTCEN could prejudice the protection of the public interest as regards public security and/or international relations,” explained EEAS Head of Division Cesare Onestini. However, “having regard to the spirit of transparency” a table was supplied outlining the number of documents produced and the topics they focused on.

Further correspondence saw some minor corrections to this information – the EEAS apparently produced 166 documents in the first six months of 2012, rather than 178. Of the 166, 17 reports were classified as SECRET, 129 as CONFIDENTIAL, and 20 as RESTRICTED. The EEAS did not provide specific information as to how the different types of report and subject were reflected in its revised total. No documents have been awarded TOP SECRET classification, a designation that is

apparently extremely limited in use. One *EUobserver* article says that some officials “cleared to read TOP SECRET files had not seen a single one in over 10 years of work.” [25]

In response to further arguments that they have a legal obligation to provide the information requested – based on court cases and common EU institutional practice – EEAS stated that many of the documents produced by INTCEN had the classifications of SECRET or CONFIDENTIAL and were thus protected by Article 9(3) of Regulation 1049/2001 which stipulates that “sensitive documents shall be recorded in the register or released only with the consent of the originator.” The letter stated that: “an institution may decide not to record such sensitive documents in the register and therefore decide not to reveal their mere existence.” It was also noted that 11 of the 20 documents classified as RESTRICTED were listed on the Council’s register, while nine were “short-lived documents of a purely internal nature.”

The refusal to provide any substantial information on the topics covered by INTCEN documents is unusual, given that the Council frequently gives descriptive information on documents that it refuses to release in order to justify the refusal. For example, one document requested from the Council was initially produced at the EEAS and marked RESTRICTED. Despite refusing access, the following information was provided:

The document contains information concerning the Syrian Revolutionaries Front [“a group closely aligned with the Syrian Muslim Brotherhood that sprung up to coordinate weapons deliveries to the opposition,” [26]] provided by individuals and groups of individuals in and outside Syria, as well as EU internal opinions and assessments regarding the situation in Syria. Given the content of this document, the General Secretariat considers that its disclosure would put at risk the individuals mentioned in the document, thus being detrimental to the protection of the public interest as regards public security. Furthermore, in view of the sensitive content of the document, its disclosure would hinder the diplomatic efforts the EU is making with its international partners to find a solution to the on-going crisis in Syria.

Disclosure of the document would undermine the protection of the public interest as regards public security and international relations.

This provides some insight into topics discussed that, at least to some extent, are based on intelligence reports produced by INTCEN.

Transparency and accountability

“Transparency and accountability in the field of security and intelligence stays imperative for the democratic and social legitimacy of security and intelligence agencies,” argues Jelle van Buuren. “As [INTCEN’s] reports can have political and policy implications, it seems a democratic prerequisite that some level of transparency is guaranteed.” [27]

According to Michael Mann, EEAS spokesperson, “the Council Working parties are EU INTCEN customers and regularly receive its intelligence products.” The Terrorism Working Party and the Working Party on Terrorism – External Aspects (COTER) are the most regular recipients of reports. At the beginning of October, in an attempt to strengthen the centre’s position, the Council called for INTCEN’s work “on the internal and external aspects of counter-terrorism” to be “used in the best possible manner.”

According to declassified documents, by March 2007 the Working Party on Terrorism had adopted 75 recommendations made by the centre. This covered issues such as: “the threat to aviation security from Islamist terrorism”; “terrorists’ access to weapons and explosives”; “anatomy of a terrorist network”; and “the threat from North African extremists in Europe”. Given that

INTCEN reports are explicitly designed to inform the decision-making process it is logical that a greater degree of democratic accountability, oversight or transparency – if not all three – is justified. Recently issued documents on “strengthening ties between Common Security and Defence Policy and Freedom, Security and Justice” also call for INTCEN’s involvement in the development of a framework for intelligence-gathering during policing missions outside the EU. [28]

The limited access to classified Council and EEAS documents afforded to some MEPs also does little to address concerns over accountability and democracy. While the possibility for a limited number of individuals to view documents produced by INTCEN exists, it is only in a tightly-defined framework that they can do so – for example, if they are part of a committee that deals with foreign affairs and they need access to information on a particular topic. Even then, what they can do with that information outside the offices in the Parliament set aside for the storage of classified information is extremely limited, because they are not able to discuss their findings with anyone else. In 2010, a member of the Parliament’s Foreign Affairs Committee said that the set-up for viewing classified information related to the CFSP had “questionable value for [the Committee] because Special Committee members cannot tell their colleagues what they know and cannot claim a superior status in decision-making.” Providing access to information but denying the power to use that information seems to be little more than a public relations exercise.

Jelle van Buuren argued in 2009 that “SitCen suffers from a profound lack of transparency – and therefore is not accountable as could be expected in democratic societies.” [29] This conclusion still holds true, despite INTCEN being willing – to a limited extent – to outline its aims and sources. It is obvious that any institution dealing with intelligence and security matters will attempt to cloak its work in secrecy, and INTCEN is assisted in this by the fact that, as an institution, it lacks a legal basis that outlines not just what the agency should do, but how it should do it. The structure of the EU institutions also means that the future direction of its work remains in the hands of the unelected and largely-unaccountable officials of the Commission, the Council and the EEAS. At the end of 2011, the European Parliament passed a resolution on EU counter-terrorism policy that called for the Commission to:

“Carry out a study to establish if counter-terrorism policies are subject to effective democratic scrutiny, on the basis of publicly available information and information provided by the Member States, including at least the following issues... an overview of the instruments for democratic scrutiny of cross-border cooperation by intelligence agencies, and more specifically of SITCEN, the Watch-Keeping Capability [part of the EU Military Staff], the Crisis Room, the Council’s Clearing House and COSI [Standing Committee on Operational Cooperation on Internal Security].” [30]

The Commission has yet to act on this request, and is under no obligation to do so.

Endnotes

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[21] *Ibid*.

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[23] *Ibid* at [6], p.16

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[25] Andrew Rettman, 'What is 'SECRET UE' anyway?', *EUobserver*, 24 September 2012, <http://euobserver.com/secret-ue/117634>

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Expulsion of Roma: the French government's broken promise

by Marie Martin

Hopes that the Socialist Party's May 2012 electoral victory would lead to substantive changes in the treatment of Roma have faded quickly amid continued forced evictions and collective expulsions.

French President François Hollande promised in his manifesto that no Roma camp would be dismantled without families being offered an alternative solution ("*pas d'expulsion sans solution alternative*"). Despite this since July 2012 the Interior Minister Manuel Valls has authorised the dismantlement of Roma camps in many French cities (e.g. Lille, Lyon, Evry, Aix-en-Provence, Marseille, Villeurbanne, Vaulx-en-Velin, Villeneuve d'Ascq). According to Valls, the expulsions were legal and aimed to put an end to the dangerous and unsanitary living conditions of the Roma.

Despite the authorities' efforts to distance themselves from the previous government - which faced international criticism for its handling of the "Roma issue" - Valls announced that 7,000 Roma would be removed back to Hungary and Bulgaria by the end of September 2012. [1]

Evictions and expulsions

The dismantlement of Roma camps is not new. The European Roma Rights Centre estimates that one settlement is dismantled every 10 days on average in the French department of Seine-Saint-Denis (Paris region). [2] Many migrant Roma are asked to leave the country each year [3] because they do not have the means to support themselves; a condition for EU citizens, such as Roma from Bulgaria and Romania, to reside in another EU country (article 7 of the Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States).

Roma represent about 30% of the foreigners removed from France annually, according to the organisation Hors La Rue which works with isolated minors. [4]

The confrontational manner in which Valls has supported the dismantlement of several Roma camps since the start of August 2012 came as a surprise to Roma rights organisations which had hoped for a wind of change with the election of the Socialist Party (*Parti socialiste*) president and coalition government in May.

Instead of offering tangible and durable solutions to evicted families, many Roma were returned "voluntarily" (mainly to Romania). Each returnee received €300 (€100 per child) from the French Office of Immigration and Integration (OFII, *Office Français de l'Immigration et de l'Intégration*) in the form of a Support to Humanitarian Return grant (ARH, *Aide au Retour Humanitaire*). As highlighted by Human Rights Watch a "voluntary" return means that the deportation order cannot be subjected to judicial review. [5] In September 2012, the European Centre for Roma Rights warned that:

ARH is usually offered under threat of eviction, with no other housing solution, and/or after several evictions within the same week or month...Returns under the threat of eviction cannot be described as voluntary and should therefore be considered expulsions under EU and French law.[6]

At least 1,162 persons were removed by the end of August [7] and 4,000 had been evicted by September. [8]

Romeurope (a network of 24 human rights organisations) regretted that dismantlement and return operations were being conducted without first consulting the competent Roma rights organisations. "[C]harter return [flights] were scheduled to Romania under the cover of "humanitarian returns" despite these return operations being carried out again under constraint, without any possibility of immediate accommodation

elsewhere.” [9]

The United Nations High Commissioner on Human Rights reacted strongly to the “*forced eviction*” and the “*collective expulsion of Roma*” in a press release issued on 29 August 2012: “Forced eviction is not an appropriate response and alternative solutions should be sought that conform with human rights standards,” said Raquel Rolnik, the Special Rapporteur on adequate housing. The Special Rapporteur on the human rights of migrants, François Crépeau, went further, regretting that “the ultimate objective seems to be the expulsion of migrant Roma communities from France.” [10]

Seeking legitimacy

France was monitored by the European Commission on 10 August 2012 to ensure that the removals complied with EU law. [11] Pressured by civil society and EU institutions, the government attempted to present a more acceptable narrative on its migration policy.

Three weeks after dismantlement operations started, the Interior Ministry convened a meeting with human rights organisations and the Housing Ministry, at which it was agreed that Bulgarian and Romanian nationals could access a wider list of economic activities (the list was extended from 150 to 291 activities).

However, it is surprising that the housing association, Emmaüs France, was not invited to the meeting because the organisation has been involved for many years in the support of Roma communities living in deprivation in France, for example through the “Emmaüs – Coup de main” (Emmaüs – Giving a hand) project which helps people living in makeshift dwellings find work and decent accommodation, and its member organisation the Abbé-Pierre foundation which helps find housing for deprived people, including the Roma.

A few days later, on 26 August, the government issued a circular on “anticipating and accompanying operations of evictions of unauthorized settlements” (*circulaire relative à l’anticipation et à l’accompagnement des opérations d’évacuation des campements illicites*), signed by seven ministries. [12]

The circular was approached with scepticism by human rights organisations such as the GISTI and Emmaüs France, mainly because of the broad scope given to law enforcement authorities and the fact that it loosens, rather than lifts, transitional measures, which are considered to be a major obstacle to the integration of Roma in France.

GISTI listed a series of shortcomings in the adopted text. [13] For example, examinations of Roma living in unsuitable settlements should take into account administrative, health, accommodation, employment and education related issues prior to an evacuation order being issued. However, according to the circular, this assessment “*may be more or less comprehensive depending on the available time and resources.*”

Indeed, despite the Ministry’s claims that all evictions are based on judicial decisions and “*follow an analysis of the individual situation*”, [14] some human rights organisations maintain that collective expulsions are still occurring. Many Roma were, in fact, issued a standard order to leave the territory through pre-filled forms without proper examination of their situation. [15]

Moreover, the text foresees the use of emergency shelters and “*temporary stabilisation*” (i.e. a non-durable alternative). For those not removed the promise of rehousing was unevenly applied, and those provided with alternatives were only offered temporary accommodation in substandard hotel rooms without any kitchen facilities: conditions that were denounced as short term and unsanitary by Roma rights organisations. [16] Many were left homeless, as reported by Médecins du Monde (Doctors of the World) [17] and Amnesty International. According to an estimate by Philippe Goossens (AEDH), 18 informal settlements

across France were evicted in September 2012 with no provision of adequate alternative accommodation. [18]

After the eviction instability, relocation (if not abandonment on the streets) and lack of long-term secure prospects forced the Roma into destitution. Children frequently drop out of school. No medical follow-up can be provided despite Doctors of the World France reporting cases of TB, measles and lead poisoning and the risk of whooping cough. [19]

Finally, access to a wider list of economic activities will only be agreed after consultation with trade unions which, according to the GISTI, “suggests that this decision will, at best, be implemented only a few months before the end of the transition period at the end of 2013.”

In a further move to demonstrate its willingness to address the issue, the government requested that the EU presidency include a session on Roma integration on the agenda of the upcoming European summit on 18-19 October 2012. [20] Although welcomed by the European Commission, this proposal did not win much support at the European level, because no reference was made – either on the agenda or in the Council’s conclusions – to the situation of the Roma in Europe. [21]

Forced evictions continue

On 29 November, Amnesty International published a report entitled *Chased away: forced evictions of Roma in Ile-de-France* [Paris area] [22] which highlighted the fact that France was still failing to comply with its legal obligations under international law – for example the right to be fully informed about the purpose of an eviction and to be offered alternative housing. [23]

People under an eviction order have up to two months to leave the premises. However, the extreme difficulty of entitlement to work means that they are unable to pay rent and leads to many Roma staying despite the eviction order.

We are aware that it is not legal for us to be here, but we have no rights, we are not in the same situation as other people, we can’t go to work. We just have no options. (ibid)

Interviews collected in several Roma settlements subjected to eviction orders convey the despair of families who feel that their voices are not heard because “[n]either the police nor the court accept any negotiation of any kind”. Residents expressed concern over the conditions they are left in.

“I want to live on a piece of land where there are rubbish bins, and water even if it is a bit far, we don’t mind, we can go and get it”, a resident in one settlement told Amnesty International.

Some expressed their difficulty in coping with the lack of hygiene and deprivation which further stigmatises them in the eyes of the French population: “...when we sit on a train or a bus, people don’t sit next to us.”

Some interviewees recounted how on occasion police officers urge Roma to leave, sometimes even using teargas against them to force their departure. Amnesty International reported that on 15 October, just two weeks after the government had met with NGOs, a Roma settlement in Noisy-le-Grand (Paris suburbs) was evicted with 150 people – including 60 children – rendered homeless.

Second-class EU citizens

About 15,000 Eastern European Roma, mostly from Romania, live in France. This population has remained stable over the last decade. [24] For years, dismantlement operations have proved inefficient: Roma removed to their country of origin often return to France, because freedom of movement is a right they have as EU citizens. Discrimination and persecution against Europe’s largest minority group has been widely documented by NGOs [25] and recently by the Human Rights Commission of the Council of Europe. [26]

In 2012, the European Committee of Social Rights meticulously investigated the violation of the rights of Roma and Travellers in Europe. The study concluded that their rights were violated under eight articles of the revised European Social Charter [27]: article 11 (right to protection of health), article 13 (right to social and medical assistance), article 16 (right of the family to social, legal, and economic protection), article 17 (right of children and young persons to social, legal and economic protection), article 19 (right of migrant workers and their families to protection and assistance), article 30 (right to protection against poverty and social exclusion), article 31 (right to housing) and article E (right to non-discrimination).[28] It is worth noting that both Romania and Bulgaria (where the majority of Roma migrants in France come from) opted out of article 30 and 31. [29]

In November 2012, Romania was condemned by the European Court of Human Rights [30] after Roma were beaten to death during an attack on a village by anti-Roma activists and the police.

France is fully bound by the European Social Charter and party to many dialogues and strategies for the inclusion of Roma such as the Council of Europe's ROMED programme which supports the employment of Roma as mediators between their community and institutions in 15 countries.[31] However, the adoption of the 26 August bylaw and the meeting on 12 September between Valls and his Romanian counterpart in Bucharest [32] shows a greater willingness to support repatriation rather than to promote integration and give access to basic economic and social rights.

The European Fund for the Integration of Roma is not accessible to countries in the west of the EU, limiting the capacity for targeted action. However, alternative funding exists (for the European Regional Development Fund – FEDER) in addition to national legislation which, if implemented, would contribute to better living conditions for Roma.

France is involved in only a few European-funded projects to improve the living conditions of Roma people. The city of Bobigny is the French partner in the Roma-Net project which spans 10 EU cities and which is funded by the FEDER under the URBACT programme.

The National Plan for Roma integration submitted by France to the European Commission in February 2012 [33] states that only seven regions (out of 26) have included the FEDER housing programme for marginalised populations in their annual programme. Some of the projects allow for the relocation of about 50-60 persons, not necessarily of Roma origin, but only if they live in urban areas identified as particularly in need of support. Moreover the National Plan for Roma Integration only takes into account the integration of non-French and French Roma, who are also experiencing profound integration difficulties. According to the Emmaüs organisation, only €1 million from the FEDER fund was used in France to support housing projects for impoverished populations. [34]

Access to health care is also difficult: as EU citizens, migrant Roma from Romania and Bulgaria cannot benefit from free Public Medical Care (AME, *Aide Médicale d'Etat*), which is only available to undocumented migrants, unless they can prove they have resided in France for more than three months. Since 2007, (i.e. after the entry of Romania and Bulgaria to the EU), access to Universal Medical Cover (CMU – *Couverture Maladie Universelle*), which was previously available to all EU citizens without restriction, has become conditional upon having medical insurance. This *de facto* excludes populations living in deprivation.

Persistence of stigmatising narratives against Roma

Despite the government's Roma-friendly façade when engaging with civil-society organisations, its true face is shown by the ongoing dismantlement of camps and expulsions of people, the

derogatory narratives on Roma by officials and the absence of a serious anti-discrimination strategy.

Despite warnings from the European Commission and international condemnation by the United Nations, the government continued with expulsions throughout August. 3,000 migrant Roma were forcibly removed between May and the end of August 2012 according to estimates made by a *Rue 89* journalist who tracked removal operations. [35]

On 23 August, Valls asserted that Romanian 'delinquency' had increased by more than 69% between 2010 and 2011. This statement echoes the claim in August 2010 by former Interior Minister Brice Hortefeux that Roma 'delinquency' had increased by 259% in 18 months. [36] Both claims were dismissed as inaccurate by the French Human Rights League among others. [37]

Officially, statistics on criminality only distinguish between nationals and non-nationals. Ethnic statistics are prohibited under French law and should not have been used by the Minister in a public statement. The existence of unlawful ethnic biometric databases (the Gaspard database) and ethnically motivated police operations were unveiled by the former government just before Sarkozy lost the presidential elections in May 2012. The French data protection watchdog CNIL expressed serious concerns about the use of categories such as "gypsies", "Mediterranean", "black" and "white". [38]

The criminality of third country nationals is relative because statistics include the number of migrants arrested who stay irregularly in the country. According to the National Observatory on Delinquency and Penal Sanctions (ONDRP – *Observatoire National sur la Délinquance et les Sanctions Pénales*), foreign criminality has been stable since 2006. [39]

On the contrary, recent events show that Roma in France are particularly vulnerable to racist attacks, and that the authorities are reluctant to take any action against anti-Roma violence. In September 2012 in Marseille, a thirty-strong gang set fire to a Roma camp forcing families to flee. These "vigilantes" had previously informed the local authorities that they would act if nothing was done to remove the settlement. In October 2012, the mayor of the town of Hellemmes, near Lille (north of France), was threatened by a group of far-right activists after he agreed to the establishment of a "village" for Roma integration (*village d'insertion des Roms*). [40]

Conclusion

The persistent lack of access to economic and social rights coupled with the issue of questionable practices during eviction and dismantlement operations was acknowledged by France's Ombudsman (*Défenseur des Droits*) who in September 2012 invited Roma rights organisations to inform him of any situation which required his intervention. [41]

According to the Ombudsman:

The situation of Roma brings up the difficulty of accessing health care, employment and social rights. However, it also touches upon the respect of the rights of the child, especially as regards access to education. The way law enforcement authorities intervene during camp dismantlements has already led to complaints with respect to security and ethical standards and more generally question the legality of evacuation operations from illegal camps in respect of European jurisprudence and fundamental rights obligations..

In October 2012, the Ombudsman wrote to the Prime Minister to inquire as to the precise arrangements that had been taken to implement the 26 August circular. By November 2012 he had not received a reply. [42] Amnesty International reported that in a letter to the Prime Minister dated 4 October 2012 the Ombudsman had also demanded that eviction orders be suspended in winter (1 November to 15 March) in accordance

with article L412-6 of the French civil code on implementation procedures, known as ‘the winter truce’ (*la trêve hivernale*). However, this does not apply to cases where people entered the premises illegally or when an emergency order has been issued (e.g. insalubrity) and it remains to be seen whether the Ombudsman will be listened to.

In August 2012, the President of the European Grassroots Anti-Racist Movement, Benjamin Abtan, insisted that it was “urgent that France clearly breaks with the acts and the spirit of summer 2010 to restore its reputation by supporting equality in Europe.” [43]

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ITALY: "Open-ended emergencies" three years on

by Yasha Maccanico

Repeated renewals of "emergency" powers have allowed for the continued deployment of thousands of soldiers on Italian streets and the extension of the "nomad emergency," under which authorities have been able to conduct forced evictions, close down unauthorised camps and segregate Roma in derogation of human rights laws.

Soldiers stay on the streets, the nomads' emergency is unlawful and camps segregate

In November 2009, *Statewatch* published an analysis examining two measures adopted in Italy in 2008. The first included "urgent measures for maintaining public security" involving the deployment of soldiers in cities for surveillance and patrol functions. The second was an "emergency" concerning "nomads" (a term used to refer to Roma, Sinti and Camminanti (Travellers), (RSC). [1] The analysis described these measures as "open-ended" because the grounds for their enactment were so general that they could be expected to last for a long time through successive renewals.

As predicted, the deployment of soldiers "for specific and exceptional crime prevention needs where a heightened control of the territory is desirable" was repeatedly extended, most recently in December 2012 for the whole of 2013. Both their number and the cities in which they were deployed were increased in August 2009, from 3,000 to 4,250 members of the armed forces and from 10 to 23 cities. Likewise, the nomad emergency was renewed in 2010 and 2011 to enable commissioners, who had been granted special powers, to complete the different "phases" that were planned to resolve the emergency. This included a census, the eviction of irregular camps, expulsion of foreigners among them who were living in Italy without residence permits and the setting up of so-called "model camps" and "equipped villages." The grounds for calling the emergency were ruled unlawful by the State Council (Italy's highest administrative court) on 16 November 2011, and an appeal is now pending. Most importantly, the context for enacting these measures was the authorities' equation of Roma camps with a calamity or natural disaster that could not be "solved" through ordinary means and had serious consequences for public order, security, and citizens' "perception of security." Likewise, the use of military personnel had followed urgent "security" legislation that equated the presence of "irregular" foreigners in cities with a security threat for which the powers of local councils and *prefetti* (government representatives in charge of security in a city) were expanded. [2]

The "emergency" concerning the "presence" of Roma, Sinti and Traveller camps and the "perception of insecurity" and public order and security issues that this supposedly raised was declared in May 2008. It was used to enact plans involving large-scale evictions of unauthorised settlements and the establishment of large "model" camps or "equipped" villages operating under special regimes far away from city centres. First declared in Lazio, Lombardy and Campania (for the cities of Rome, Milan and Naples), the emergency was renewed and extended to Piedmont (Turin) and Veneto (Venice) in May 2009. In 2010, it was renewed for the whole of 2011. Already in 2009, the Lazio *tribunale amministrativo regionale* (TAR, regional administrative court) upheld a complaint regarding measures in the newly established camps' regulations in Rome and Milan that violated the constitutional rights of residents, but it dismissed claims that enacting the emergency itself was discriminatory. The sentence was suspended while appeals were pending before the *Consiglio di Stato*. In November 2011, the *Consiglio di Stato* partially upheld the appeal submitted by ASGI (the *Associazione Studi Giuridici sull'Immigrazione*) and the *Associazione 21 Luglio*, which argued that the emergency itself was unlawful, dismissing the appeals filed by the government and municipal authorities. The Monti government appealed the ruling before the Court of Cassation, claiming that the State Council had exercised undue powers, partly suspending its effects. In the meantime, scathing reports by NGOs and officials monitoring the situation on behalf of international bodies noted that the new camps or villages (especially the *La Barbuta* "solidarity village" in Rome) fostered exclusion and segregation rather than integration, contrary to Italy's international obligations.

"Technical" government renews and expands scope for deployment

One point of interest in revisiting the measure is to see whether the switch from an ideologically charged right-wing government to a so-called "technical" government led by Mario Monti had resulted in any substantial changes. The former had come to power on a security ticket that singled out migrants and Roma

people as a key source of insecurity. The latter was supposed to mitigate the effects of the crisis through its professional know-how in the financial and economic spheres, and by restoring Italy's international credibility.

On 14 December 2012, interior minister Anna Maria Cancellieri announced that the *Comitato Nazionale dell'Ordine e della Sicurezza Pubblica* (CNOSP, National Committee for Public Order and Security) had agreed to extend the deployment of 4,250 soldiers for the surveillance of sensitive sites and targets, for control posts and joint patrols alongside police officers, for 2013. The CNOSP is headed by the interior minister and includes top level police, armed forces and intelligence officials. The deployment of 3,000 soldiers began on 4 August 2008 following a decree issued by the then interior minister Roberto Maroni, after he had reached an agreement with former defence minister Ignazio La Russa on 28 July 2008. The purpose of this "temporary" deployment was the surveillance of sensitive sites and targets, external surveillance of *centri di identificazione ed espulsione* (CIEs, detention centres for migrants) and patrols and territorial control in conjunction with *carabinieri*, officers from the *Guardia di Finanza* (GdF, customs and excise authority) and police officers. 1,000 soldiers were made available for each of these three tasks, and a further 1,250 were added in 2009 for use in patrols and territorial control posts at the behest of the *prefetto*.

In addition, a CNOSP meeting focussing on counter-terrorism was held in May 2012 after an attack on the CEO of *Ansaldo nucleare*, Roberto Adinolfi, who was shot in the legs, and a series of attacks against *Equitalia*, the public agency tasked with tax collection. After the meeting, the interior ministry announced "the reorganisation of the deployment plan for military [personnel] in controlling targets that are at risk," paying special attention to "the delicate activity of personnel from the public administration who are subjected to protests that are sometimes violent." Thus, having already made the presence of soldiers on the streets routine practice in several cities, protest movements may now face soldiers with experience in peace-keeping operations in conflict areas abroad when they demonstrate outside institutional buildings or public administration agencies.

Renewal of the measure for 2012 was included in article 33 point 19 of the stability and budget preparation law no. 183 of 21 November 2011. It revealed that 72.8m euros were earmarked for this activity in 2012: 67m for the military personnel and 5.8m for members of police forces who participate in surveillance and territorial control functions through mixed patrols and control posts. In fact, military personnel can only operate in joint patrols or surveillance posts alongside one or two officers from other forces (see above). They can stop and search passers-by and oblige them to produce identification documents, but they cannot enact arrests or carry out judicial police functions.

Criticism was voiced in July 2011 by the Verona provincial branch of the police officers' trade union SIULP in a statement that highlighted the shortage of officers in the city. At the time, the situation was worsened by the transfer of 10 officers tasked with acting as "carers" for the army patrols. This would result in members of police flying squads being used for this task, resulting in a "considerable decrease in the number of patrols." The SIULP statement told the Veronese that "if there are less 'panthers' [flying squads] monitoring the territory as of tomorrow, it will be because flying squad officers will be made to accompany military [personnel] in a useless and costly service." The statement questioned the very idea of deploying soldiers to assist in the maintenance of public order and security because they "are trained to act in theatres of war, and possess neither the professionalism, nor the requirements envisaged by the law to be able to work in the context of public security."

In October 2012, an overview of the results obtained by the

operation was released. Since August 2008, 10,955 people were arrested or held in custody; 4,450 people were charged; 1,089 stolen vehicles were recovered; 305 weapons and 7,475 pieces of ammunition were confiscated; 385,265 items of falsified goods were confiscated; 280,845 patrols were carried out; and more than 1,300,000 people were stopped for controls.

"Milan is not Beirut"

Defence minister La Russa did not deem the deployment of soldiers a cause for concern when the measure was first enacted because they reassure citizens and "No decent person has ever been scared of a police officer, a *carabiniere* or a [member of the] military." Moreover, the criteria to justify deployment are unspecified beyond a heightened need to prevent crime, guarantee security and control a given territory (see below). Thus, a measure introduced as "temporary" and "exceptional" to counter growing insecurity was renewed a year later because a "decrease in criminal offences" demonstrated its "effectiveness." In this way, the need for a measure entailing "specific and exceptional" crime prevention and territorial control activities can simply be gauged from a request for such deployment by a *prefetto* and assessment by the CNOSP.

The understanding of these measures as routine practice was evident in the controversy that followed the mayoral elections in Milan won by centre-left candidate Giuliano Pisapia in the summer of 2011. Mirko Mazzali, head of the city council's security commission, rejected the use of soldiers in joint patrols. He argued that

Milan is not Beirut, and it does not need [members of the] military in the streets. You obtain security in the city through prevention, by revitalising its neighbourhoods, not through repression.

The deployment was more than halved by the withdrawal of 350 of the 653 soldiers operating in joint patrols in neighbourhoods deemed crime hotspots. These were usually areas with a high migrant population or a Roma camp, in line with the priorities of the former head of the security commission, Riccardo De Corato. Those deployed for permanent external surveillance of the *Via Corelli* detention centre (70) and sensitive sites (consulates, stations, airports, key places of worship) were kept.

La Russa reacted by redeploying the soldiers withdrawn from Milan to seaside resorts in August 2011 and expressed his displeasure:

I don't think the mayor has made the Milanese happy by acting in order for the 350 military [personnel] who were employed to date in patrolling the city's most dangerous areas alongside carabinieri and the police to be withdrawn. But, involuntarily, Pisapia has made someone happy: I am thinking of the citizens and tourists in holiday locations in 14 Italian provinces where, in agreement with minister Maroni, we have decided to redistribute the military [personnel] withdrawn from Milan.

Apart from indicating that once 4,250 soldiers have been made available they will be deployed, this also raises questions as to the criteria for the territorial implementation of a measure that was introduced in specified cities as "temporary" and "exceptional." Moreover, it further increased the number of cities and towns that experienced this deployment, up to 37 from the initial 10 in August 2008 and the 13 to which it was extended a year later.

Exception or routine? Concept and controversy

These developments were not surprising considering that La Russa had explained in an interview in August 2009 that the purpose of the measure was to solve cities' main problem, "street crime" and that deployment should be increased. He congratulated De Corato as the "best councillor in charge of security in Italy" and described the allocation of 150 extra soldiers to the city as "preferential treatment because the city attained the best results compared with others." He argued that

the weak spot of large cities is:

All forms of street crime. They cause the most alarm. Don't consider them petty crime, stop using that word. It is only by combating mugging, dealing, thefts and violence that it is possible to truly improve citizens' standard of living and their perception of security.

Although these are not “exceptional” phenomena they may be used to justify the long-term militarisation of public space. He did not exclude further increases when asked, and spelt out his intention of making the measure permanent:

That's the intention [to increase deployment], because the model works. But we will have to change the law, because the measure now has an exceptional and extraordinary character...We will also have to take resources into account.

Asked about the deputy mayor of Venice's claim that the city was safe enough and the army would “come to repress nothing,” La Russa answered:

Fortunately, it's up to the government and not the deputy mayor to decide. From the requests we have received from citizens, it doesn't appear that Venice is so safe, there are many needs. We will send 30 men.

At a meeting in Milan in February 2010, members of the police trade union SIULP and the CISL trade union complained about cuts to the number of police officers in the city, arguing that there was a shortage of around 700 officers. La Russa's reply was telling:

In Milan, the police forces have been integrated with military [personnel] who patrol the dangerous areas, sometimes on foot; from the viewpoint of citizens, there is an effective cover. The number of security workers is exactly the one that was requested: it doesn't matter if they are carabinieri, police officers or military [personnel].

Thus, his understanding is that the different categories are interchangeable.

Roma people: Emergency was not substantiated and camps segregate

The case of the “nomad emergency” raises questions over the use of public policy against specific groups and the use of emergencies to fast-track systematic plans and derogate legal safeguards for the targets of state intervention. The State Council's November 2011 ruling is significant in that it shows how an unlawful decree had far-reaching consequences for the people concerned, enabling the furthering of policies that have been repeatedly condemned as discriminatory by international bodies and observers. Other developments included the submission of a *National Strategy for the Social Inclusion of Roma, Sinti and Travellers* by the Monti government in February 2012 that recommends an opposite direction from those undertaken by the Rome and Milan city councils. These included hundreds of operations to evict and destroy existing camps, moving residents to large isolated camps on the cities' outskirts. A court case concerning the La Barbuta camp on the outskirts of Rome included submissions highlighting how this policy is discriminatory and by fostering exclusion runs contrary to goals for the integration of marginalised groups. The eviction of a camp in Tor de' Cenci was temporarily suspended on 8 August 2012 by the Lazio TAR on the basis that it was liable to be considered “discriminatory” but the ruling of 26 September allowed it. Mayor Gianni Alemanno explained that it contradicted the view that the nomads' plan and the council's policies were discriminatory: “There had been an incredible sentence that accused us of segregation, of not respecting human rights.”

The State Council sentence

The ruling by the Lazio TAR issued on 1 July 2009, concerning

the prime ministerial decree of 21 May 2008 that declared the “nomads” emergency, was appealed by ASGI and the *Associazione 21 Luglio* before the State Council on two key grounds. Firstly, they argued that it had been called without fulfilling the necessary preconditions for declaring an emergency. Secondly, that in reality, it was only dictated by an intent of ethnic and/or racial discrimination that is incompatible with constitutional, EU and international principles in this matter. Appeals were also submitted by the government, the interior ministry and Rome city council to overturn the ruling that several measures stemming from the emergencies applying to the camps and villages that Rome and Milan city council were setting up contravened human rights. The appeals resulted in a suspension of the execution of the original sentence by the State Council on 25 August 2009.

In sentence no. 6050/2011 of 16 November 2011, the State Council recognised that the administration enjoys a degree of discretion in assessing situations or events that may lead to the declaration of an emergency, but argued that this does not rule out judicial scrutiny of such decisions. Such scrutiny may apply to the “reliability and appropriateness of the procedure and reasons” that were used with regards to the “intensity” and “breadth” of the situation for which ordinary means and powers were deemed insufficient. The court did not deem the “previous and preparatory” acts to provide “certain and objective elements” demonstrating the “actual existence of an extraordinary situation of this kind.” Actions to provide new and adequate housing solutions for nomad communities, including employment opportunities, improved hygiene, protection for minors from exploitation and access to social services were subordinate to the emergency's main purpose. The “primary interest [that was] pursued” was “to safeguard the populations residing in the urban areas affected by a situation deemed to be dangerous engendered by the existence of settlements of nomads.” This can be inferred by the fact that concerns for nomads' wellbeing were included in implementation ordinances that followed the decree as subsidiary measures to the primary concern. In fact, the decree merely stressed the need to resolve a situation of “social alarm”, or a “threat” for “public order and security.” This language is “commonly employed in penal or public security legislation” rather than for social or hygienic-sanitary issues.

There is a lack of “precise factual data” to demonstrate an “aetiological relationship” between the presence of nomad settlements and an “exceptional disturbance of public order and security” in the concerned areas. References to “possible serious repercussions” on these interests look ahead to the future, whereas references to the “serious episodes that endanger public order and security” are not documented “beyond mention of specific and isolated episodes.” Despite their prominence in the media, these cases do not suffice to prove that the situation is exceptional or extraordinary. They include devastating fires in Roma camps, like the one in Ponticelli (Naples) when members of the population set the camp alight in protest against the alleged kidnapping of a child. Yet, such cases remain “occasional and exceptional” and are not apt to certify the existence of a “situation” applying to a whole region that requires emergency powers. Even if the mere intensity and breadth of the “presence” of nomads were to be deemed suitable to declare the emergency, neither the decree nor its preliminary acts provide quantitative data that would enable such a conclusion to be drawn. Figures on the number of “nomads” are not provided for Rome or Naples, whereas they are estimated to be around 6,000 in Milan, insufficient to “render ordinary instruments and powers ineffective” considering the size of the city. Thus, the alleged “event” requiring an emergency has been shown not to exist and may suffice to show that the further legal requirement (“the impossibility of tackling the event itself through ordinary means and powers”) does not exist either.

While it may be difficult to coordinate actions by several administrations to distribute and locate “nomadic” communities in a balanced way, the decree did not include references to attempts to use ordinary coordination instruments that had proved ineffective. Thus, rather than being proved, the inadequacy of ordinary means and powers is “irrefutably stated” and may “hypothetically” result from the institutions’ incapacity or from a “scarce political will to resort to ordinary instruments.”

The sentence notes that a reading of the decrees that renewed and extended the emergency in December 2009 and 2010 showed that they do not contain an updated evaluation on the “persistence of the situation that was...asserted as the basis for the declared emergency” in the original decree of 21 May 2008. Thus, annulment of the original decree would also apply to these subsequent measures.

While the State Council found it “easy” to decide that the grounds for calling the emergency and for its subsequent renewals were not duly specified, its reading of the issue of discrimination was “not as linear.” It acknowledged the plaintiffs’ argument that preliminary and preparatory acts were examined by the TAR in relation to the grounds for calling the emergency but had been ignored in relation to the complaint of racial discrimination. In fact, while the decree and subsequent ordinances spoke of the presence of “nomads,” “nomad communities” and “illegal camps” without specifying ethnic or racial features, preliminary documents mentioned a “strategic plan for the Roma emergency in the city of Milan.” “Roma emergency” and the words “Roma camp” were often used instead of “nomad camp.” Furthermore, it is common knowledge that a vast majority of the people in the camps belong to the Roma community. Yet, while these elements “are suitable to uncover a discriminatory intent by some of the institutional actors” involved, it does not authorise the conclusion that “the entire administrative action...was solely and primarily aimed at carrying out a racial discrimination” against Roma people. Thus, the State Council upheld the TAR’s ruling insofar as the emergency was enacted to resolve “a situation of social alarm” rather than to create ghettos for Roma people. The appeals submitted by the government and Rome city council were dismissed. They concerned the TAR’s ruling that the modalities for the census of inhabitants in irregular camps and parts of the regulations of the new model camps or equipped villages were unlawful (limiting freedom of movement, family life and the right to choose one’s profession). The latter were deemed to have a character that is “manifestly and objectively limitative of specific liberties.”

The State Council suspended the effects of the sentence on contractual obligations between state authorities and third parties of the judgement on 9 May 2012 while a decision was pending after the Monti government appealed it before the *Corte di Cassazione* [Italy’s highest appeal court] on 15 February 2012. Due to the “serious consequences...that would derive from an interruption of activities that are underway in execution of the acts that are subject to impugnation and annulment...prevalence must be given to the mentioned requirements of continuity.” Thus, activities have been allowed to continue (and further money spent) to enact plans that contravene the strategy presented by the Monti government in application of EU requirements (see below) under a regime that has been ruled unlawful.

Solving the emergency – a public policy of exclusion

The State Council sentence was important in two key aspects. Firstly, because it ruled that an emergency that had far-reaching implications was declared without fulfilling the legal requirements for doing so. Secondly, because it accepted the reasoning whereby discrimination can be gauged from the use of the word “Roma,” even though the measures clearly target a specific population and “nomad” is used by the Italian authorities

as a synonym of the RSC communities. This mirrors the problems in the case of the large-scale evictions enacted in France in the summer of 2010. Controversy between the Sarkozy government and the European Commission only arose when documents explicitly referring to “Roma people” surfaced, in spite of ongoing discriminatory treatment. The European Council then showed France how description, rather than mention of an ethnic group, could be used to avoid criticism, by launching initiatives to target “Mobile Organised Crime Groups” [3].

While evictions were not a new development, the emergency allowed their intensification as part of a systematic nomad plan to close irregular camps and relocate their residents in new “model camps” or “equipped villages.” In fact, the nomad plan began with a census that found that 7,177 people were present in over 100 camps in the capital. An estimated 2,200 were in irregular settlements, 2,736 were present in “tolerated” camps and 2,241 in “authorised villages.” Arrangements would be made for a capacity of 6,000 “nomads” to be accommodated in 13 camps (eight have been set up). The Associazione 21 Luglio produced a report in September 2012 concerning conditions in the La Cesarina camp, and the European Roma Rights Centre (ERRC) and Amnesty International submitted material in the context of the La Barbuta case (above) that highlights the nature of these new camps, and includes criticism from international bodies:

There are some authorised settlements, put in place by local authorities. These are generally located in peripheral urban areas, far distant from city centres, or in industrial zones. Although they avoid the worst health-related problems, since they offer access to running water and electricity, these sites are often densely packed with containers, arranged in straight lines, each of which is intended to house up to four or five people. In the case of a container that is home to four people the average floor area per person is less than half that recommended by the Building Code standard; at the same time, the families concerned often have more members than the number of persons the container is officially intended to house....Moreover, authorised settlements are often surrounded by a fence or even a wall that is higher than the average adult, and access is restricted solely to residents holding an identity badge; non-residents can enter the settlements only after showing an identity document to the guards on duty. ECRI notes with concern that these conditions – although they often constitute an improvement in sanitary terms compared with the situation prevailing in the illegal settlements – are tantamount to segregation, stigmatise people living on these sites, pose serious problems of integration of the Roma in Italian society.

ERRC noted that “the practice of building and maintaining segregated camps for the Roma ethnic group is in complete disagreement with the [European] Community approach on this matter.” It also contravenes the National Strategy for the Inclusion of Roma, Sinti and Camminanti, submitted in February 2012 to the European Commission in application of Communication no. 173/2011. The Strategy unequivocally states that “the aim is to definitively overcome the emergency phase, which has characterised the past years, especially when intervening in and working on the relevant situation in large urban areas”. It emphasises the need to move beyond “Roma camps, as a condition of physical isolation, which reduces the chances of social and economic inclusion for RSC communities.” Furthermore, the Strategy argues that “The liberation from the camp as a place of relational and physical degradation of families and RSC people and their relocation to decent housing is possible.” This development was welcomed by Council of Europe human rights commissioner Nils Muižnieks, following his visit to Italy from 3 to 6 July 2012. He added that

“The Commissioner firmly believes that the policy of segregated camps and forceful evictions, that have characterised the approach of the ‘Nomads’ Emergency’, are diametrically opposite to the new national strategy for the inclusion of the Roma and Sinti, and must therefore be definitively relegated to the past.” This view contrasts starkly with that of deputy mayor Sveva Belviso, who argued: “Popular housing for the Roma? They can forget about it. There is no alternative to nomad camps.”

Evictions – costly and traumatising

Systematic summary evictions entail the destruction of camps and of residents’ possessions as police officers are flanked by bulldozers that raze the camps, huts and caravans to the ground under the gaze of their inhabitants. A report published on 24 August 2012 by the *Associazione 21 Luglio* that has been monitoring evictions in Rome provides a telling account of the breadth, nature and cost of such activities. It notes that following the presentation of the capital’s nomads’ plan on 31 July 2009, “Roma and Sinti communities were heavily penalised.” By 11 August 2012, 450 camps or settlements had been forcefully evicted at a cost of 6,750,000 euro. An estimated 2,200 people from 480 families were repeatedly evicted, at a cost of around 14,000 euros per family. Roma families were “made to wander from one end of the city to the other without any alternative solution, without social inclusion projects, without adequate assistance, without schooling support, trampling on the basic rights of humans and of children.” Some recurring characteristics of the evictions included: the families were hardly ever notified so were caught by surprise; the police did not produce documentation concerning the eviction; a disproportionate number of police officers were involved in relation to the people being evicted and sometimes abused the people being evicted either verbally or physically; the Roma people’s dwelling places and possessions were arbitrarily destroyed; most of the people were not provided adequate alternative housing solutions; numerous Roma children had to interrupt their schooling; and there were large numbers of children and people with serious health problem among those evicted.

By spring 2011, when 320 evictions had already taken place, a new practice was introduced, based on a 1942 civil code provision, whereby women who refused “solutions” offered by Rome city council were made to sign a document stating that: “I confirm that I have been informed that if I will not be able to guarantee my underage children a healthy and safe dwelling place...the Public Authority, pursuant to article 403 of the civil code, will have to intervene through the bodies for the protection of children, to immediately place them in a safe location.” 32 minors were thus taken from their communities and placed in social assistance facilities.

On 9 March 2012, the UN Committee for the Elimination of Racial Discrimination presented its *Consideration of reports submitted by States parties under article 9 of the convention*. In Point 15 of the document, it:

deplores the targeted evictions of Roma and Sinti communities which have taken place since 2008 in the context of the NED [Nomads Emergency Decree] and notes with concern the lack of remedies provided to them despite the ruling of the Council of State in November 2011 annulling the NED. It is concerned that forced evictions have rendered several Roma and Sinti families homeless and regrets the ways in which security personnel and video-controlled access to some of these camps are used. As indicated in its previous concluding observations, the Committee is concerned that the Roma, Sinti and Camminanti populations, both citizens and non-citizens, are living in a situation of de facto segregation from the rest of the population in camps that often lack access to the most basic facilities.

In view of the sentences passed to date by the Lazio TAR and the State Council on this issue and the matter of racial/ethnic discrimination, it appears that deputy mayor Belviso may have found a solution. On 13 September 2012, she suggested that homeless people may be moved into the camps alongside the RSC communities.

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Perfidious Albion: Cover-up and Collusion in Northern Ireland

by Paddy Hillyard

The British government's dealings have been characterised by cover-ups, deceit and perfidiousness, with collaboration between British security forces and loyalist paramilitaries, obstruction of investigations, refusal to hold public enquiries, and new forms of intelligence-led policing which allowed informers to act with impunity.

Introduction [1]

In 1989 Pat Finucane, a prominent and successful lawyer, was shot dead in front of his wife and children. They have long campaigned for a full-scale public inquiry into his murder amid allegations of collusion between his Ulster Defence Association (UDA) paramilitary killers and British security services. In early October 2011, 22 years after the murder, the Finucane family was called to Downing Street to meet the Prime Minister, David Cameron, in the expectation that he was going to announce that he had agreed to a full public inquiry. Instead, he informed them that there would be only a review of the papers by a senior QC. Pat Finucane's wife, Geraldine, was furious declaring that: "It was clear within minutes that we had been lured to Downing Street under false pretences by a disreputable government led by a dishonourable man." She continued: "My family and I have been humiliated publicly and misled privately." She emphasised that at no time were they told that an alternative to an inquiry was also under consideration. [2] It was yet another example of deceit and perfidiousness which has long characterised the British establishment's dealings in Ireland.

From the start of the troubles, cover-ups had been a central characteristic of the British state's role in Northern Ireland. Bloody Sunday was a typical example. Thirteen innocent people were gunned down by the British Army on the streets of Derry following an anti-internment march on 30 January 1972. Edward Heath, the British Prime Minister, quickly announced the setting up of a Tribunal under the powerful 1922 Tribunal of Inquiries Act. Determining the structure of the Tribunal, however, was no easy matter. The selection of the right judge, with a nod and wink from his old public school cronies in politics and the civil service, could guarantee the right outcome and so it was for 'security reasons' that the Tribunal was held in the mainly Protestant market town of Coleraine. It was obvious it was going to be a whitewash. The utter disdain shown to the witnesses from Derry by the English public school lawyers permeated the proceedings. The 96-page whitewashed report was indeed 'justice impaired.' [3]

Collusion between loyalist paramilitaries and the army in the 1970s was also covered up or kept secret. Recently, the Pat Finucane Centre discovered documents in the Public Records Office which suggest that by the late 1970s the Ulster Defence Regiment (UDR, a volunteer British Army infantry regiment) was heavily infiltrated by the Ulster Volunteer Force (UVF) and that UDR units perpetuated fraud to fund the UVF. None of this was made public. However, papers marked for "UK eyes only" showed that 70 UDR soldiers had UVF links and were known to be involved in paramilitary activities, including a member of the notorious Shankill Butchers gang. Minutes of a meeting at British Army HQ in Lisburn in 1978 stated that:

It would be desirable to avoid mention of the security investigation into UDR soldiers' possible involvement with paramilitary organisations. [4]

A new secret security strategy

By the late 1970s, the Royal Ulster Constabulary (RUC) had been modernised and had adopted many of the structures and practices of police forces in England and Wales. [5] The legal basis of policing was the prevention and detection of crime. In the early 1980s, however, policing in Northern Ireland was fundamentally changed. The collection and collation of intelligence now took priority with far-reaching consequences. Within the RUC this change gave supremacy to Special Branch (SB), which could now decide who should or should not see particular intelligence, who should or should not be arrested and whether or not criminal investigations should or should not be carried out. [6] Informers, whatever they did, from murder to exhortation, became the backbone of the new policing strategy and were to be protected at any cost.

What was so extraordinary about this fundamental change in policing was that it was never announced in a Green or White paper, let alone debated in Parliament. It was devised and implemented in secret, by the secret service. Parliament and the general public never knew of such a crucial change in the form of policing until some twenty years later when the blueprint for the reform was revealed in a UTV programme, *Policing the Police*, in April 2001. However, the reforms, which subverted the normal democratic process must have been discussed at the highest level in the Northern Ireland Office and, in particular, in the Joint Intelligence Committee – the intelligence steering group at the heart of government in the Cabinet Office, which Mrs Thatcher chaired at the time. All subsequent Prime Ministers and Secretaries of State for Northern Ireland would also have been aware of this fundamental change in policing.

The blueprint was drawn up by Sir Patrick Walker, who at the time was believed to be second in command of the Security Services (MI5) in Northern Ireland. He later went on to become Deputy Director (1987-1988) and subsequently Director (1988-1992) of the whole organisation. MI5 was, therefore, centrally involved in developing the new policy and determining its own role within it. Thus an organisation, whose very existence was denied at the time – it was eight years later when the then Conservative government confirmed its presence as part of the British state – not Parliament, was responsible for the fundamental reform of policing in Northern Ireland. Although Special Branch was given the lead role, MI5, having devised the strategy, played a significant role behind the scenes. They pulled the strings.

In 2009, an authorised history of MI5 was published under

the title *The Defence of the Realm*. [7] It is an uncritical, bland 1032 page history of the organisation. There are 122 pages of endnotes, a significant proportion of which are made up of the vague reference 'Security Service Archive.' There are page reference errors, which hardly instil confidence in the scholarship. One simply notes: "See above p. 000." Unsurprisingly, there is no mention whatsoever of the most important change in the history of policing on these islands.

The instructions to implement the recommendations of the Walker Report were circulated to senior officers in the RUC by Assistant Chief Constable (ACC) J.A. Whiteside. The circular emphasised that the needs of the intelligence community were paramount. All existing agents, sources and informants had to be declared and detailed instructions on the handling of these individuals were contained in an attached appendix. All decisions on planned arrests had to be cleared with Special Branch "to ensure that no agents of either the RUC or the Army were involved." The decision to charge an agent required that "the balance of advantage had been carefully weighed." [8] Crucially, interviews with suspects were no longer to be for the sole purpose of the detection and prosecution of crime, but also for the collection of intelligence. Even after an admission had been obtained, Criminal Investigations Department (CID) Officers had to be aware that they may be able to gain other valuable intelligence and they should liaise with Special Branch Officers to exploit these opportunities. If desirable, Special Branch should be given the opportunity to question the person. Once charges had been preferred, the circular recommended that "a reasonable period" should elapse between charge and court appearance so that Special Branch could question the person for intelligence purposes. In short, the interviewing of suspects was being turned into an opportunity to 'turn' suspects and recruit informers.

It is now apparent that the reform of the police was part of a wider, more deadly security strategy that had been devised at the very highest echelons of government and included fundamental changes in the Army and the way it collected, collated and disseminated intelligence. Until 1977, each battalion ran its own agents who were then passed on after the four month tour of duty. This practice was stopped and brigades became responsible. [9] A short time later in 1980 all intelligence gathering was centralised in what was euphemistically called the Force Research Unit (FRU), based in HQNI Lisburn. It was tasked with the responsibility of looking after all recruits from all the various units of the armed forces. It trained them to go under cover in Northern Ireland.

At the centre of this new intelligence-led security strategy were agents and informers – 'Covert Human Intelligence Sources' (CHISs) as they are now called under the Regulation of Investigatory Powers Act (RIPA) 2000. Agents are typically members of the security services specially recruited to infiltrate paramilitary organisations and informers are existing or potential members of paramilitary organisations who are blackmailed, bribed or otherwise encouraged to provide information to the security forces.

Until the introduction of RIPA in 2000 there was no clear legal basis for intelligence-led policing. The Home Office guidelines on the use of informers were considered inappropriate in the context of Northern Ireland. In effect, there was no rule of law in Northern Ireland. Moreover, senior personnel knew that this new strategy had approval at the highest level and that their decisions would not be questioned. Special Branch quickly became a 'force within a force' and the FRU a clandestine unit at the heart of the Army.

To be successful, CHISs must commit a wide range of criminal activities from robberies to murder. Some will act as an *agent provocateur* and encourage others to commit murder. There will always be a tension between the prevention and detection of crime and turning a blind eye to serious crimes in

order to protect highly valuable informers. More importantly, in the sectarian and antinomian context of Northern Ireland, it was a short step from intelligence gathering to using CHISs to prosecute the war against republicans by directing and encouraging loyalists to carry out assassinations of republicans.

The security intelligence strategy in operation

One of the first inquiries to shed light on the new form of intelligence-led policing was the Stalker Inquiry. Stalker was asked in May 1984 to investigate six deaths at the hands of the RUC in three separate incidents in 1982. Before he had completed his investigation he was removed from the inquiry and suspended from his post in the Greater Manchester Police (GMP) on suspicion of associating with known criminals in Manchester. He was later cleared and reinstated but retired within a few months. In his book on the affair, he gives his impression of RUC Special Branch after investigating two of the incidents:

The Special Branch targeted the suspected terrorist, they briefed the officers, and after the shootings they removed the men, cars and guns for a private de-briefing before CID officers were allowed any access to these crucial matters. They provided the cover stories, and they decided at what point the CID were to be allowed to commence the official investigation of what had occurred. The Special Branch interpreted the information and decided what was, or was not, evidence...I had never experienced, nor had any of my team, such an influence over an entire police force by one small section.[10]

He describes at length the way in which Special Branch and MI5 gave him the run-around and refused to give him vital information. He had discovered that in one of the incidents, in which two people had been shot in a hayshed, the building had been bugged by MI5. He had requested access to the tape and the file of the informant who had been involved in this and one of the other incidents. Some six months after first requesting the tape, he was told that it no longer existed, but he could have the transcript provided he signed a secrecy form. He refused. Special Branch and MI5 were not going to allow an independent police investigator access to crucial information. The protection of their informer took precedence over accountability and transparency. Stalker's persistence had dire personal consequences. He was subsequently removed from the inquiry on carefully circulated falsehoods into his alleged 'criminal associations' in Manchester, which were then secretly investigated not by an outside force but by a team within the Greater Manchester police. Deceit, once again, was everywhere.

The Stevens Inquiries

Following the murder of Pat Finucane on 12 April 1989, there were continuing allegations of collaboration between the security forces and loyalist paramilitaries. In May, following a letter from the Director of Public Prosecutions to the Chief Constable of the RUC, John Stevens was asked to reinvestigate the murder of Pat Finucane and allegations of collusion. It was the first of three inquiries he conducted stretching over more than 14 years. In a summary of his work in 2003 he concluded:

My Enquiries have highlighted collusion, the wilful failure to keep records, the absence of accountability, the withholding of intelligence and evidence, and the extreme of agents being involved in murder. These serious acts and omissions have meant that people have been killed or seriously injured...

Stevens, like Stalker, was obstructed by the security services throughout his investigations, a practice that became more intense as he progressed. He considered the numerous obstructions to be "cultural in nature and widespread within parts of the Army and the RUC." [11] There was a clear security breach before the arrest of army agent Brian Nelson for his involvement in the murder of Pat Finucane and the arrest had to

be aborted. [12] The night before the second attempt to arrest him, the investigation team's incident room in the secure compound at the RUC's Carrickfergus site was subject to an arson attack. [13] The main team had left at 9pm but four members returned unexpectedly 25 minutes later to find the room alight. Neither the smoke alarm nor the heat sensors had gone off and the telephone lines had been cut. They made an attempt to tackle the fire but found that there was no water in the fire protection system. It was suspected that a covert method of entry (CME) unit of FRU was responsible. [14]

Access to information from both the police and the army was a continuing problem. Stevens was told that certain documents did not exist only for his team to find them at a later date. [15] Crucially, they were not informed of the 'intelligence dump' in the possession of Brian Nelson. [16] The continual concealment of documents from the team slowed up the investigation and led to a number of witnesses having to be interviewed on multiple occasions. As a result of these experiences, Stevens investigated whether the concealment of documents was sanctioned and at what level. As yet, there has been no information released into the public domain as to his conclusions on this vitally important public issue.

The Cory Inquiries

As part of the attempts to consolidate the 1998 Good Friday Agreement, talks were held at Weston Park in August 2001. Following the talks, the UK and Irish governments issued a joint statement which acknowledged that certain cases, in which there were "serious allegations of security force collusion," remained a source of grave concern. In May 2002, the British government appointed Peter Cory, a retired Canadian judge, to examine allegations of collusion in relation to the deaths of Patrick Finucane, Robert Hamill, Rosemary Nelson and Billy Wright, two RUC officers, Breen and Buchanan and Justice Gibson and his wife. The government promised that should Cory recommend a public inquiry into a particular death, it would be held. Following his investigations, Cory recommended five inquiries.

The Cory Inquiries provide more evidence of the way in which the new security intelligence strategy was working to undermine the rule of law in Northern Ireland. Agents were to be protected at any cost through a culture of concealment. No independent outside investigation into the behaviour and activities of any of the branches of the security services were to be given access to intelligence documents, as first experienced by Stalker and Stevens.

In his investigation into the murder of Pat Finucane, Cory came across evidence of meetings which had taken place between senior officials, the General Officer Commanding Northern Ireland and the Chief Constable at which access to intelligence was discussed. These took place before Stevens had even arrived in Northern Ireland. Cory quotes one document as noting the decision that: "The CC (Chief Constable) had decided that the Stevens Inquiry would have no access to intelligence documents or information, nor the units supplying them." Cory commented:

The wilful concealment of pertinent evidence, and the failure to cooperate with the Stevens Inquiry, can be seen as further evidence of the unfortunate attitude that then persisted within RUC SB and FRU. Namely, that they were not bound by the law and were above and beyond its reach. These documents reveal that government agencies (the Army and RUC) were prepared to participate jointly in collusive acts in order to protect their perceived interests. Ultimately the relevance and significance of this matter should be left for the consideration of those who may be called upon to preside at a public inquiry. [17]

Apart from the concealment of documents, Cory concluded that there was *prima facie* evidence of collusion in relation to a

number of specific aspects of the murder and its investigation. The FRU failed to warn Finucane of the threat to his life, passed on information to Nelson, failed to constrain Nelson's criminal activities and presented on oath misleading evidence at his trial. The Security Service failed to suggest to RUC SB that it should warn Finucane. The RUC SB failed to take action on known threats, failed to follow up leads on the gun used in the murder, failed to record FRU information in the Intelligence and Threat Books and took a sectarian position in the reporting of threats and withheld information from investigating officers. [18]

Cory also produced detailed reports into the killing of Rosemary Nelson, [19] Robert Hamill [20] and Billy Wright. [21] Inquiries into each of these cases, as recommended by Cory, have now been held. The Nelson and Wright inquiries have been published. The Hamill inquiry, however, will not be published until legal proceedings are finished. The Nelson and Wright inquiries provide further insight into the intelligence-led security strategy and the culture that was created. They make sombre reading for anyone who believes in democracy and the rule of law.

Inquiries arising from Cory: A: The Nelson Inquiry

The Nelson Inquiry, which investigated the circumstances surrounding the murder of solicitor Rosemary Nelson, in Lurgan on 15 March 1999, took a much narrower definition of collusion than that used by Cory. It found "no evidence of any act by or within any of the state agencies we have examined (the Royal Ulster Constabulary (RUC), the Northern Ireland Office (NIO), the Army or the Security Service) which directly facilitated Rosemary Nelson's murder." [22] It went on to say that it could not exclude the possibility that there was "a rogue member or members of the RUC or the Army in some way assisting the murderers to target Rosemary Nelson." However, the detailed analysis of all the available evidence by the inquiry revealed yet again a culture of concealment combined with an attitude that key organs of the state in Northern Ireland were above the law and not answerable to an independent judicial inquiry. Assistant Chief Constable Colin Port, who was brought in by the RUC to head up the Murder Investigation Team (MIT), chillingly told the inquiry:

At the time of this investigation Special Branch was a separate entity in Northern Ireland. They had a very close relationship with the Security Service and the military. Their approach was completely new to me and very different from my experiences of working with Special Branch in other parts of the UK at that time...I had been used to being supplied with the whole intelligence picture, whereas in Northern Ireland I soon learned that this was not the case. Special Branch decided on whether material was relevant to a murder investigation. In the rest of the UK, the Senior Intelligence Officer [SIO] was given the whole intelligence picture; an Intelligence Cell working directly for the SIO was tasked by the SIO to produce intelligence and information. In Northern Ireland it was very different. Whilst the SIO ran the investigation, the intelligence was provided by Special Branch. They only provided summaries of the intelligence product. The SIO needs to understand the provenance and reliability of intelligence. In other parts of the UK this can be easily achieved through the Intelligence Cell. However, it was more difficult in Northern Ireland. Special Branch in Northern Ireland acted like the Intelligence Cell. They were the holders of the intelligence and in this respect were all powerful. [23]

The Inquiry revealed that it received only 'sanitised scripts' from Special Branch (SB) and reported that "the original notes or contact sheets on which the intelligence had first been recorded were routinely destroyed for security purposes." [24] As a result the Inquiry admits that they "were unable to test the source or to examine the original notes from which the sanitised script was

prepared.” [25] It went on to say that: “We would, however, have expected to see some evidence of analysis and evaluation of the material contained in the reports. No such evidence was disclosed to us.” [26] Here is an independent judicial inquiry recording that it received only ‘sanitised scripts’ and all it says about this disgraceful state of affairs is that it would have expected to see “some evidence of analysis and evaluation of the material.” [27]

The routine destruction of crucial information appears to have been a carefully constructed policy so that agents would be protected at all costs notwithstanding the wider implications for the administration of justice and the rule of law in Northern Ireland. Giving evidence to the Wright Inquiry, one senior Police Service of Northern Ireland (PSNI) officer, former ACC Sam Kinkaid, described the culture within Special Branch as that of ‘plausible deniability,’ which he described as:

“...a practice or culture that existed in an organisation where the members did not keep records, so there was no audit trail. Nothing could be traced back, so that if they were challenged they denied it, and that denial, being based on no documentation, would become ‘plausible deniability’...it [the system] didn’t give proper audit trails and proper dissemination, and at times it would appear that it allowed people at a later date to have amnesia, in the sense that they couldn’t remember because there was no data on the system.” [28]

The Nelson Inquiry also heard that telephone transcripts made by the RUC were routinely destroyed and police officers were allowed to similarly dispose of their personal journals when they retired. [29] Moreover, a number of items of intelligence were withheld from the murder investigation team. One crucial item was related to the telephone used to make the claim of responsibility for the murder. This would have permitted extensive enquiries in an attempt to identify the caller. But it was withheld. The Inquiry concluded “We strongly suspect that SB feared that it might have compromised the identity of a source. However, in our opinion this piece of information was so crucial to the investigation that the failure to disclose it was wholly unjustified.” [30] Another vital piece of information which was withheld from the Inquiry concerned Operation Fagotto – a Special Branch operation close to the house of Rosemary Nelson on the evening before she was blown up by a car bomb. The Murder Investigation Team (MIT) was not told of the operation until three days after her murder. [31]

Also involved in Operation Fagotto was a Headquarters Mobile Support Unit (HMSU) – a specialist unit attached to Special Branch and trained in firepower, speed and aggression. These units had been involved in two of the killings investigated by Stalker. It was assumed by the MIT that the Unit had remained in Portadown but this was not the case. It was in fact in Lurgan, on the night before the murder. Where it was deployed remains unknown. As the MIT assumed that the Unit was in Portadown on the night in question members of the team were never interviewed. This only came to light when the notebooks from these officers were eventually disclosed in January 2010 – six months after the Inquiry had concluded its public hearings. [32]

Two further damning revelations were included in the Nelson Inquiry report. The first concerned a letter which Jane Winter, head of British Irish Rights Watch, wrote to Mo Mowlam, the then Secretary of State for Northern Ireland, which among other matters recorded that threats had been made to the life of Rosemary Nelson by police officers. The Northern Ireland Office (NIO) forwarded the letter and the attachments to the RUC but neither the NIO nor the RUC took any action in respect of it. Further letters were sent from other concerned individuals and groups but nothing was done. The Inquiry concluded with the damning statement: “In our view, neither the NIO nor the

RUC dealt with the NGOs’ concerns thoughtfully and effectively, with the result that no action was taken to safeguard Rosemary Nelson.” [33]

The other damning revelation was that the Public Prosecution Service failed to disclose to the defence in the murder trial of Colin Duffy, whom Rosemary Nelson represented, that it had paid a key witness to the murder £2,000 to start a new life in Scotland. [34] It turned out to be far from a new life as he was later charged with UVF offences and the deal was revealed. From all the available evidence, it appears that criminal justice agencies conspired against the fair and impartial administration of justice in Northern Ireland.

B: The Wright Inquiry

In the Wright inquiry, which investigated the circumstances of the murder of Billy Wright in the Maze Prison on 27 December 1997, once again there was a long list of failures concerning the production of records for the inquiry. The PSNI failed to produce comprehensive documentation for the period under investigation. [35] It failed to provide the inquiry with either paper or electronic manuals detailing the way informers were managed or the names of key informants and their payments. According to the Inquiry this was “most unfortunate.” [36] It failed to produce logs of the Tasking and Coordinator Group which had responsibility for coordinating all security operations in the region. [37] It failed to produce any significant hard copy intelligence files from SB for 1997. Oddly, the inquiry only found this “puzzling” given “the enormous number of hard copy files which were then in existence.” [38] Crucially, it failed to produce a police file on the murder of Wright.

The inquiry considered at some length the PSNI’s policy on the review, retention and destruction of SB Records. There appears to have been no clear policy and witnesses gave conflicting views of their understanding of the current rules and procedures. Incredibly, it was revealed that there was no procedure in place which stipulated what should happen to Day books and journals. [39] The inquiry concluded meekly that: “there are grounds for criticising the PSNI for the non-existence or non-production of hard copy records and for the lack of adequate and effective systems for information management, dissemination and retention.” [40] It then added what appears to be an afterthought:

...this could on occasion have amounted to deliberate malpractice, in that it involved the destruction of audit trails and the concealment of evidence which might have been damaging to the reputation of the RUC. (emphasis added) [41]

No reference is made in the report to the Walker reforms in 1981. If the Inquiry had studied these it would have seen that there was nothing “occasional” about these so-called “malpractices.” These practices were central to the reforms introduced by Walker in order to protect informers. They involved the systematic and regular destruction of audit trails and the concealment of evidence. They were policies that damaged the RUC’s reputation and are now damaging the reputation of the PSNI.

The Northern Ireland Prison Service (NIPS) fared no better in terms of its review, retention and destruction of documents. After the report by Judge Cory, and after the Billy Wright Inquiry had been announced, the NIPS incinerated all the Prisoner Security Files for HMP Maze for the entire period of the Troubles. No records were kept of what was destroyed or the event itself. The inquiry described this event in somewhat stronger language as ‘scandalous’ [42] and said that it was a “highly unsatisfactory position.” [43] It was far more than ‘scandalous’ and ‘unsatisfactory’. It showed yet again the complete disdain for the rule of law held by those in power in Northern Ireland. It reflected a belief that they were above the

law and under no circumstances would their actions be thoroughly reviewed by an independent judicial inquiry.

The Wright Inquiry was also critical of communication between Special Branch and CID. This was a problem that existed since the introduction of the Walker recommendations but nothing appears to have been done to improve it. The inquiry commented laconically: "It would be natural to assume that these two arms of the RUC would have wished to work in the closest and most constructive partnership, but this appears not to have been the case in 1997." [44] And indeed for the previous 17 years.

The inquiry concluded that the handling by the RUC of the various threats to the life of Billy Wright between October 1996 and June 1997 did constitute, both individually and cumulatively, wrongful acts or omissions and that these facilitated his death. [45] However, as it considered that the essence of collusion is "an agreement or arrangement between individuals or organisations, including government departments, to achieve an unlawful or improper purpose," [46] it concluded that while it was critical of certain individuals and institutions or state agencies, some of whose actions did, in its opinion, facilitate Wright's death, it was not persuaded "that in any instance there was evidence of collusive acts or collusive conduct." [47]

This was an extraordinary conclusion in the light of the Walker reforms which were clearly "an agreement or arrangement" between government departments at the highest level of the state "to achieve an unlawful" purpose, namely changing the legal basis of policing in Northern Ireland from the prevention and detection of crime to the protection of informers involved in murder and other serious crimes. Moreover, there was a clear policy, which must have been approved at the highest level of government, that important intelligence should be withheld, if it had not already been destroyed, from any police or judicial inquiry.

Ombudsman's reports

The Police Ombudsman for Northern Ireland's office was set up in 1998 and has powers to investigate complaints against the police and carry out investigations if it is considered in the public interest. A number of the Ombudsman's reports shed further light on the workings of the intelligence-led security strategy and, in particular, the Walker reforms. Two will be considered here. First an investigation into matters relating to the Omagh Bombing on 15 August 1998 in which 29 people and two unborn children died and some 250 people were injured, some of them seriously. [48] The Ombudsman started the investigation following a newspaper article in which an army agent, Kevin Fulton, claimed that he had told the police about an impending bomb attack. Second, an investigation into a complaint made by Mr McCord into the murder of his son on 9 November 1997. [49]

The Omagh Report revealed yet again the central role of Special Branch in policing Northern Ireland and its culture of secrecy. By 2001 it still did not have in place policies and procedures for the management and dissemination of intelligence to the rest of the force. [50] Some police officers gave inconsistent accounts to the investigators, others refused to talk or make statements. At senior level, the Ombudsman described the response as "defensive and at times uncooperative." [51] Crucially, Special Branch withheld 'significant intelligence' from both the Senior Investigation Officer into the bombings and the Reviewing officer [52] and failed to inform those investigators of a computer system where intelligence, vital to the investigation, was held. [53]

Raymond McCord Junior was murdered by loyalists. Following preliminary inquiries the Ombudsman widened her investigation to embrace seven lines of enquiry. At the heart of her investigation were her concerns about the informant management processes. In March 2003, she alerted the Chief Constable to her concerns. In her investigation, she discovered

intelligence linking one police informer to 10 murders and other intelligence linking him and other informers to at least 10 attempted murders. In addition, informers were linked to a wide range of other serious crimes. "Informer One" had been recruited through a "long standing relationship with a police officer." He had started working for Special Branch in 1999 and had been paid over £79,000. Her main findings were devastating and are listed in Table 1 (see below)

Her report also highlighted the ineffectiveness of the oversight of powers under RIPA. A Surveillance Commissioner is required to inspect the level of police compliance with the requirements of the Act. According to the Ombudsman, previous inspections by the Surveillance Commissioner in Northern Ireland had not identified any significant non-compliance by the PSNI. In his February 2003 report, he concluded that: "Overall there continues to be a high level of compliance with the legislation and codes of practice." [55] Only after a further investigation prompted by the Ombudsman's concerns did he conclude that the rules had not been complied with. This level of oversight does not inspire confidence in the system.

The widespread belief that the Special Branch was above the law and answerable to no-one was once again revealed in the response to the Ombudsman's investigation. When asked to help her in her enquiries, a number of very senior retired officers did not consider it their duty to assist and refused to do so. They included two retired Assistant Chief Constables, seven Detective Chief Superintendents and two Detective Superintendents. [56] Other serving officers, while assisting the investigation, gave contradictory, evasive and even dishonest replies to questions, showing contempt for the law. [57] The Ombudsmen noted:

Most of these senior officers have not given any explanation of their roles, and have not made themselves accountable. They have portrayed themselves as victims rather than public servants, as though the public desire for an explanation of what happened during the period under investigation was unjustified. Their refusal to co-operate is indicative of disregard for the members of families of murder victims from both sides of the community. In addition to this, their refusal to co-operate has had the effect of lengthening the investigation, and of depriving the public of their understanding of what happened. [58]

There appears to have been no change in the culture described by Stalker, despite reform of the RUC in 2001.

Conclusions

The picture which emerges from these police and judicial inquiries should cause widespread concern in any democracy. The picture from investigative journalists and disgruntled agents and informers who have survived the conflict is even more disturbing. It is alleged that the lives of numerous people were sacrificed in both communities in order to protect informers. [59] Some have gone much further and suggested that the security forces directed the killings, principally of republicans through their agents and informers. Nicholas Davies, a one-time Foreign Editor of the *Daily Mirror* newspaper, in *Ten-Thirty-Three: The Inside Story of Britain's Secret Killing Machine in Northern Ireland*, published in 1999, [60] describes how the security services used loyalist gunmen to target and kill republicans. In his second book, *Dead Men Talking: Collusion, Cover-up and Murder in Northern Ireland's Dirty War* he describes how MI5 and RUC SB worked together to direct both loyalist and Provisional IRA gunmen to commit murder. He makes the specific allegation that MI5 officers in London were responsible for organising Pat Finucane's death. [61] It is impossible from the outside to assess these allegations. But what makes them particularly disturbing is that much of the detail first revealed in *Ten-Thirty-Three* in 1999 has been confirmed in the various police and judicial inquiries.

The refusal to hold a full scale public inquiry into Pat Finucane's murder goes to the very heart of democracy and the rule of law. No country can have any confidence in government if state agencies appear to be above the law and suspected of serious crimes of commission, omission and collusion. Successive governments have refused to grant an inquiry no doubt because they fear that it would reveal too much of the secret state in Northern Ireland and could lead to the prosecution of individuals at the very highest level.

In 2005, the powerful 1922 Tribunal of Inquiries Act was abolished and replaced by the Inquiries Act, which reduces substantially the independence of an inquiry and also provides the Minister with the power to determine what aspects should be held in public and what should or should not be revealed. Cynically, the change could be seen as a way to grant an inquiry which could then be tightly controlled. But an inquiry under these new rules no longer appears to be acceptable to the current government, further confirming that there is much to hide.

Numerous reasons have been put forward as to why it would be wrong to hold an inquiry. It has been suggested that it would be too costly. But it is impossible to put a cost on having a robust, transparent and democratic system where no-one is above the law. Others have suggested that singling out the Finucane case creates a hierarchy among the thousands of other people who

have lost their lives. This is a fair criticism, but the Finucane case is likely to reveal most about the extent of collusion particularly if the focus of the inquiry is on the operation of the intelligence-led strategy rather than focused narrowly on one case. It therefore goes beyond the interests and needs of the victims in Northern Ireland. It is in the interests of everyone in the United Kingdom to hold those in power to account.

Cory in his report on the murder of Pat Finucane spelt out the consequences of not upholding the commitment at Weston Park to hold an inquiry. He wrote:

...the failure to hold a public inquiry as quickly as it is reasonably possible to do so could be seen as a denial of that agreement, which appears to have been an important and integral part of the peace process. The failure to do so could be seen as a cynical breach of faith which could have unfortunate consequences for the peace accord. [62_

The consequences, however, of renegeing on the commitment go well beyond the peace accord. It suggests that politicians and senior public servants can connive with the secret services in developing illegal security strategies, that the police and army can act beyond the rule of law, that agents of the state can commit murder with impunity and that at the heart of British democracy there is unaccountable security apparatus. To rephrase Lord

Table 1: Police Ombudsman's findings in the McCord Investigation [54]

- * Failure to arrest informants for crimes to which those informants had allegedly confessed, or to treat such persons as suspects for crime
- * The concealment of intelligence indicating that on a number of occasions up to three informants had been involved in a murder and other serious crime
- * Arresting informants suspected of murder, then subjecting them to lengthy sham interviews at which they were not challenged about their alleged crime, and releasing them without charge
- * Creating interview notes which were deliberately misleading; failing to record and maintain original interview notes and failing to record notes of meetings with informants
- * Not recording in any investigation papers the fact that an informant was suspected of a crime despite the fact that he had been arrested and interviewed for that crime
- * Not informing the Director of Public Prosecutions that an informant was a suspect in a crime in respect of which an investigation file was submitted to the Director
- * Withholding from police colleagues intelligence, including the names of alleged suspects, which could have been used to prevent or detect crime
- * An instance of blocking searches of a police informant's home and of other locations including an alleged UVF arms dump
- * Providing at least four misleading and inaccurate documents for possible consideration by the Court in relation to four separate incidents and the cases resulting from them, where those documents had the effect of protecting an informant
- * Finding munitions at an informant's home and doing nothing about that matter
- * Withholding information about the location to which a group of murder suspects had allegedly fled after a murder
- * Giving instructions to junior officers that records should not be completed, and that there should be no record of the incident concerned
- * Ensuring the absence of any official record linking a UVF informant to possession of explosives which may, and were thought according to a Special Branch officer's private records, to have been used in a particular crime
- * Cancelling the "wanted" status of murder suspects "because of lack of resources" and doing nothing further about those suspects
- * Destroying or losing forensic exhibits such as metal bars
- * Continuing to employ as informants people suspected of involvement in the most serious crime, without assessing the attendant risks or their suitability as informants
- * Not adopting or complying with the United Kingdom Home Office Guidelines on matters relating to informant handling, and not complying with the Regulation of Investigatory Powers Act when it came into force in 2000

Denning's reason for refusing the appeal of Birmingham Six: "This is such an appalling vista that every sensible person would say, that 'It cannot be right that there is no public inquiry'."

Endnotes

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22. Cory (2004a) p. 465.

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25. *Ibid.* para 4.30.

26. *Ibid.* para 4.36.

27. *Ibid.* para 4.36.

28. Cory (2004c) para 5.141.

29. Cory (2004a) para 2.10.

30. *Ibid.* para 31.30.

31. *Ibid.* Para 34.1.

32. *Ibid.* para 34.32.

33. *Ibid.* para. 16.60.

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35. Cory (2004c) op. cit. Para 5.41.

36. *ibid.* para. 6.117.

37. *Ibid.* para. 5.68.

38. *Ibid.* para. 5.115.

39. *Ibid.* para. 5.121.

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43. *Ibid.* para. 6.311.

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New material and sources

Civil liberties

Secret Manoeuvres in the Dark: corporate and police spying on activists Eveline Lubbers. *Pluto Press* 2012, pp. 272, (ISBN: 9780745331850). Reviewed by Chris Jones. Eveline Lubbers sets out to expose and explore the world of state-corporate collusion in spying on political activists, and does so admirably in a book that features five in-depth case studies, covering the attempt to undermine the Nestlé boycott in the 1980s; the covert operations that emerged from court evidence in the 1990s McLibel trial; Manfred Schlickerrieder, who spent years infiltrating left-wing movements across Europe whilst working for both security services and the economic intelligence firm Hakluyt; the work of the agency Threat Response, which infiltrated Campaign Against Arms Trade on behalf of BAE Systems; and a more general examination of cyber-surveillance and online covert strategy. Those two words – “covert strategy” – are key to the way Lubbers examines these cases. The book is aimed at showing how “intelligence

gathering facilitates covert strategies designed to frustrate and undermine the critics of corporations.” She argues that activities such as infiltration are not necessarily used to undermine groups, at least not in the first place: “spying also involves the gathering of intelligence that precedes the development corporate counterstrategy.” The case studies provided in the book bear out this point well. Lubbers notes a shift in the targets of such operations in the 1980s, when corporations saw it necessary to target the individuals and groups – often from religious backgrounds – involved in boycott campaigns. Prior to this, it was most frequently trade unionists who felt the brunt of corporate covert strategies, and although this is clearly continuing (as can be seen with the ongoing Consulting Association blacklisting scandal in the UK), the ousting of Mark Kennedy and other police spies in recent years makes clear that corporate critics are frequently the targets of infiltration and intelligence-gathering operations. The aim of the book is not simply to provide a history of cases of covert infiltration into campaign groups

and political organisations – something it does very well – but also to make clear to activists that there are steps that can be taken to limit the possibilities of such instruction, and to provide a starting point for further research in a field that Lubbers calls “activist intelligence.” In line with this, *Secret Manoeuvres* also engages with academic literature, with plenty of criticism for those – often business academics – who ignore the fact that corporations can and do utilise covert strategy in trying to achieve their aims. It might leave you paranoid, but the book is essential reading for anyone interested in the subject.

Europe

Trading Away Peace: How Europe helps sustain illegal Israeli settlements. *APROVED, Broederlijk Delen, Caabu, CCFD-Terre Solidaire, Christian Aid, Church of Sweden, Cordaid, DanChurchAid, Diakonia, FinnChurchAid, ICCO, IKV Pax Christi, FIDH, Medical Aid for Palestinians, Medico International, Medico International Switzerland, The Methodist Church Britain, Norwegian People's Aid, Quaker Council for European Affairs, Quaker Peace and Social Witness, Trocaire*, 30.10.12., pp.35. This report by 22 European NGOs presents factual and statistical evidence that the EU is falling short of its commitment to conflict resolution in Palestine and to a two-state solution, a few weeks after it was awarded the Nobel Peace Prize. As stated by the EU's former Commissioner for External Relations (1993-1999), Hans van de Broek, who prefaced the report: “So far [Europe has] refrained from deploying our considerable political and economic leverage vis-à-vis Israel to contain developments on the ground that contradict our basic values and undermine our strategic interest.” The report details Israel's breaches of international law, the discriminatory and destructive logic that enables the growth and development of over 200 illegal settlements in the West Bank and East Jerusalem (it is estimated that 82% of the Palestinian GDP is lost annually as a result of restrictions on access to resources). It also notes the inefficiency of the EU's support for Palestine – such as giving duty-free access to Palestinian products in the EU - as long as this exploitative logic persists. This policy is detrimental to the EU itself which sees many of its projects in the Palestinian territories suffering from the situation (e.g. destruction of homes and buildings, non-sustainability of projects). With the EU receiving 20% of Israeli exported goods, the NGOs suggest the Union can make a difference if it acts in coherence with its long stated position that “settlements are illegal under international law.” The report concludes with a set of concrete recommendations, some of them based on measures already implemented in Ireland, the Netherlands and the UK, from the labelling of products from the illegal settlements to the exclusion of these products from preferential market access and the refusal to provide public funds to EU companies investing in the illegal settlements: <http://www.fidh.org/IMG/pdf/trading.pdf>

Immigration and asylum

The protection of migrant rights in Europe: Spain - Report of Migreurop for the Human rights Commission of the Council of Europe. *ACSUR Las Segovias, Andalucía Acoge, APDHA, CEAR, Asociación Elín, Federación SOS Racismo*, November 2012, pp. 18. Six Spanish NGO members of the Euro-African network Migreurop have published a report on the rights of migrants in Spain following a call for submissions by the Human Rights Commissioner of the Council of Europe. The report focuses on the inhumane conditions of migrants held in prison-like immigration detention centres (some of which are located in former prison buildings). There are 14 immigration detention centres in Spain (CIE - *Centro de Internamiento de Extranjeros*) although only seven are officially recognised as such, the others remaining beyond purview. The report points out that no regulation applies to the management of CIEs and detainees cannot challenge a deportation order, nor are complaints of physical abuse and ill-treatment examined. Law enforcement authorities operating in CIEs remain unaccountable for violence exerted against migrants. Victims of trafficking, people in need of international protection, and unaccompanied minors are detained and deported without being in breach of Spain's legal obligations. Civil society organisations, journalists and even the Ombudsman face tremendous obstacles preventing them from accessing CIEs, and human rights activists are

routinely subjected to judicial and police harassment. Coming back extensively to the inhumane detention conditions and the lack of preventive mechanisms and legal remedy to guarantee the respect of detainees' rights, Migreurop denounces the systematic detention of foreigners as a “precautionary” measure. Drawing on tragic cases of deaths in detention, collective expulsions, the use of firearms against migrants attempting to cross the border, the report documents the violence of the Spanish state at the border and the impunity of law enforcement authorities, despite warnings and recommendations from several international human rights bodies in the past few years including the UN Committee Against Torture and the UN Convention for the End of Discrimination Against Women. Link: http://www.migreurop.org/IMG/pdf/Migreurop_-_Spain_-_Report_for_the_Human_Rights_Commission_of_the_Council_of_Europe.pdf

Human Cargo: Arbitrary readmission from the Italian sea ports to Greece, Katerina Tsapopoulou, Marianna Tzeferakou and Salinia Stroux. *Pro Asyl and the Greek Council for Refugees*, July 2012, pp.30. This research was conducted in April and May 2012. It draws on observation in Italian ports and on interviews with 50 migrants, including minors, who claimed they were readmitted from Italy to Greece at least once. According to the Dublin II Regulation, asylum-seekers should have their claim examined in the first EU country they set foot in. Those who attempt to reach another Member State after their arrival in the EU are often returned to the first country. However, removals to Greece were suspended after landmark rulings by the European Court of Human Rights and the European Court of Justice which found that asylum-seekers were not being treated in a dignified and fair manner. This report shows that removals to Greece did not stop and that many migrants were subjected to “informal readmission” upon their arrival in Italian ports. Migrants arriving in Italy by sea are not provided with adequate support upon arrival and are put back on board ship, unaware that they are being sent back to Greece and without any information being provided on the possibility of claiming asylum. Their identity is not registered by the authorities and they do not appear in immigration statistics. No proper age-assessment is made so unaccompanied minors are sent back as well. Migrants and NGOs operating in ports – when they are allowed access to migrants – reported the use of violence and of detention of migrants on board the ships used to deport them. Such practices are in violation of the safeguards entailed in the 2009 readmission agreement between Greece and Italy. The report provides clear evidence that, despite the official suspension of Dublin II removals to Greece, Italy still fails to meet its obligations under international and European law. Available at: http://www.proasyl.de/fileadmin/fm-dam/p_KAMPAGNEN/Flucht-ist-kein-Verbrechen/humancargo_01.pdf

Law

Learning from Death in Custody Inquests: a new framework for action and accountability, Deborah Coles and Helen Shaw. *INQUEST* October 2012 (ISBN 978 0946858 279) pp. 36. This report highlights “the serious flaws in the learning process following an inquest into a death in custody or following contact with state agents.” The authors' argue that: “Recent death in custody inquests have shown how vital the inquest process is in the identification of failings in custodial health and safety. Yet once the inquest is over there is nothing in place to make sure those failings are addressed and acted upon by the relevant authority.” The report identifies failures in communication and recording procedures, healthcare treatment and resources, treatment of those identified as being at risk of self-harm, training, cell design and mental health issues among others. Available as a free download: http://inquest.gn.apc.org/pdf/reports/Learning_from_Death_in_Custody_and_Inquests.pdf

This Bill is a Cameron Cover-up on Torture, Louise Christian. *The Guardian* 22.10.12. Christian, a solicitor acting on behalf of people illegally detained by the US at Guantanamo Bay, condemns the failure of UK parliamentary democracy to uncover the truth of the government's complicity in torture and rendition and its proposed use of legislation (the Justice and Security bill) to prevent information from coming to public attention. She discusses the Gibson inquiry

(abandoned after it was boycotted by complainants and NGOs over its secrecy), the Baha Mousa inquiry (the only report to date that documents the beating to death of an Iraqi civilian prisoner by British soldiers) and the Iraq Historical Allegations Team inquiry (accused of being a “whitewash” by one of its investigators.) Christian also discusses the clear evidence for the UK’s collusion in rendition and torture, such as that by Nick Mercer, a former lieutenant colonel giving legal advice to the army, who “had been made aware of a number of allegations of rendition. These arose when information about the death of an Iraqi national in a UK helicopter revealed that at least 64 prisoners were being transported on the helicopter to an unknown ‘black site.’ The fate of those prisoners is unknown.” Christian also considers the British government’s collusion in the rendition of Martin Mubanga from Zambia in 2002. She concludes that the evidence that she had access to as a lawyer would not have been made available if the Justice and Security bill had been in force. Available as a download: <http://www.guardian.co.uk/commentisfree/2012/oct/21/bill-cameron-cover-up-torture>

Military

Unnecessary and Disproportional: the killings of Anwar and Abdul-Rahman al-Awlaki. *CagePrisoners* 2012, pp. 32. US citizen Anwar al-Awlaki was killed in a US drone strike in Northern Yemen in late September 2011. The report analyses the narrative developed by the US government, and repeated by its European allies, to justify the Muslim cleric’s assassination, by presenting him as a leader of al-Qaeda in the Arabian Peninsula (AQAP) and the mastermind behind several attacks against the USA. The report also highlights the legal inconsistencies used to justify “President Obama’s ‘much-expanded “targeted killing” policy, which uses UAVs” to carry out extra-judicial killings across the globe: http://cageprisoners.com/pdf/AwlakiReport_4.pdf

Living under Drones: death, injury, and trauma to civilians from US drone practices in Pakistan. *US Drone Practices in Pakistan* September (International Human Rights and Conflict Resolution Clinic (Stanford Law School) and Global Justice Clinic (NYU School of Law)) 2012, pp. 167. This report, based on a nine month project which interviewed victims and witnesses, examines the effects of US President Obama’s policy of systematically targeting large sections of the Pakistani population through drone attacks. The report also interviews government officials, representatives from Pakistani political parties, drone “experts”, lawyers, medical practitioners, development workers, members of civil society, academics, and journalists to conclude: “In the United States, the dominant narrative about the use of drones in Pakistan is of a surgically precise and effective tool that makes the US safer by enabling “targeted killing” [i.e. assassination] of terrorists, with minimal downsides or collateral impacts. This narrative is false. Following nine months of intensive research—including two investigations in Pakistan, more than 130 interviews with victims, witnesses, and experts, and review of thousands of pages of documentation and media reporting — this report presents evidence of the damaging and counterproductive effects of current US drone strike policies. Based on extensive interviews with Pakistanis living in the regions directly affected, as well as humanitarian and medical workers, this report provides new and first hand testimony about the negative impacts US policies are having on the civilians living under drones.” Available at: <http://livingunderdrones.org/>

Drones: the physical and psychological implications of a global theatre of war, Marion Birch, Gay Lee and Tomasz Pierscionek. *Medact* 2012, pp. 18. This report discusses the proliferation in the use of armed Unmanned Aerial Vehicles (UAVs), the increasing number of deaths and injuries of innocent civilians caused by their use and the increasing evidence of psychological damage to people living under the threat of drone attack (and to the drone operators themselves.) The report records that up to the end of September 2012 Britain had carried out over 300 drone strikes in Afghanistan, noting plans to double the UK’s fleet and the establishment of a joint British-French drone that could be developed by 2015-2020. The report discusses the human cost of the use of drones, the moral and ethical issues raised by political assassinations, as well as their dubious legal status. The report concludes that the US’s drone attacks “act as a recruiting agent for

organisations such as al-Qaeda and fuel violence. Available at: http://www.medact.org/content/wmd_and_conflict/medact_drones_WE_B.pdf

Losing Humanity: The Case against Killer Robots. *Human Rights Watch and the International Human Rights Clinic of the Harvard Law School* (November) 2012, pp. 49 (ISBN: 1-56432-964-X). Examines the legal implications of fully autonomous weapons or “killer robots”, which “do not yet exist, but technology is moving in the direction of their development and precursors are already in use.” Those precursors include systems such as Israel’s Iron Dome, which automatically detects incoming missiles and attempts to shoot them down, following the split-second approval of the “operator.” The report examines whether fully autonomous weapons could comply with principles of international humanitarian law, such as distinction, proportionality and military necessity that are intended to minimise civilian casualties in conflict. It concludes that “fully autonomous weapons would not only be unable to meet legal standards but would also undermine essential non-legal safeguards for civilians. Our research and analysis strongly conclude that fully autonomous weapons should be banned and that governments should urgently pursue that end.” http://www.hrw.org/sites/default/files/reports/arms1112ForUpload_0_0.pdf

Policing

Report into the policing of protest 2010/2011. *Network for Police Monitoring* (Netpol), July 2012, pp. 55. This Netpol study, which is based on evidence from court cases and eyewitness reports of police operations during 2010 and 2011, is extremely critical of police tactics to clamp down on the freedoms of assembly and expression. Its key findings have been grouped into three areas: the use of pre-emptive interventions (e.g. intrusive levels of stop and search and pre-emptive arrests, such as on the anti-austerity demonstration on 30 June 2011); control of movement (e.g. the use of “kettling” to discourage protest. The report argues that “it should play no further part in the policing of demonstrations”); and the gathering of data or intelligence (“significant concerns” at the use of Forward Intelligence Teams and increased use of powers to require protesters to provide their name and address under legislation designed to deal with anti-social behaviour.) The report considers “that taken as a whole, the powers and strategies utilised by the police have allowed them to exercise an excessive and disproportionate level of control over protest assemblies and processions.”: <https://netpol.files.wordpress.com/2012/07/wainwright-report-final1.pdf>

Deaths during or following police contact: statistics for England and Wales 2011/12, Simon Keogh. Paper 24 (IPCC Research and Statistics Series, London UK) July 2012, pp. 16 (ISBN: 978-0-9564/30-7-9). This report documents 121 deaths during or following police contact in 2011/12. They occurred in the following categories: road traffic (18); police shootings (2); deaths in or following police custody (15); other deaths following police contact (47) and apparent suicides following police custody (39). The figures disclose that vulnerable people are still being taken into police custody rather than to a hospital, leaving them in police cells which are dangerous places for them. The figures also reveal a high number of restraint-related deaths despite the dangers of restraint techniques having been documented in numerous earlier cases: http://www.ipcc.gov.uk/en/Pages/reports_polcustody.aspx

Race disproportionality in stops and searches under Section 60 of the Criminal Justice and Public Order Act 1994. Equality and Human Rights Commission *Briefing paper* 5 (Summer) 2012, r.p. 50, (ISBN 978-1-84206-448-1). Section 60 gives the police the arbitrary power to stop and search pedestrians and vehicles within a specified area and during a specified period of time. New government data shows that police forces are up to 28 times more likely to use these powers against black people than white and may therefore be breaking the law. This has prompted the coming together of a collective of 16 organisations to launch a campaign against stop and search policy, highlighting the racially discriminatory character of recent legislation, and Section 60 of the Criminal Justice and Public Order Act (1994) in particular. The Stop and Talk campaign points out that the discriminatory use of stop and search powers requires corrective steps

to be taken, as required by Section 149 of the Equality Act 2010. The group has sent an open letter to Home Office ministers Theresa May and Nick Herbert and Bernard Hogan-Howe, Commissioner of the Metropolitan police force, asking that the Met reveals details of its stop and search policy and initiate a consultation with communities on changes to stop and search. For more information on the Stop and Talk initiative see: <http://www.stopandtalk.co.uk/>

Intakes: Communities, commodities and class in the August 2011 riots. *Aufheben* 2011, pp. 17. *Aufheben* grew out of the anti-poll tax movement and the campaign against the Gulf War and its influences included the Italian *autonomia* movement of 1969-77 and the Situationists. This article was written in the “immediate wake” of the August ‘riots’ and is “an attempt to provide an empirical base to an analysis of the unrest...using various sources, including mainstream media statistics (events, arrestees, locales), relevant academic studies, social media, video and audio footage, some interviews with looters and rioters and our own experience as participants.” The first part of the article presents a brief history of the August riots, followed by a comparison with the riots of July 1981 while the final part employs “quantitative and qualitative evidence to examine aspects of the August events such as ‘looting’, the composition of the crowds and policing tactics.” The report is available as a free download: <http://libcom.org/files/Intakes%20-%20Communities,%20commodities%20and%20class%20-%20Aufheben.pdf>

Race disproportionality in stops and searches under Section 60 of the Criminal Justice and Public Order Act 1994. *Equality and Human Rights Commission* 2012, pp. 50 (ISBN 978-1-84206-448-1). In 2010 the EHRC published its Stop and Think report, which looked at police use of stop and search under the Police and Criminal Evidence Act (PACE) 1994 highlighting the disproportionate number of stops and searches on black and Asian people compared to white people. This new report, based on data from 40 police forces, also shows that people who are black, Asian or of mixed ethnicity are also “disproportionately stopped and searched when the police use the Criminal Justice and Public Order Act 1994. Section 60 of this Act gives the police the power to stop and search any pedestrians or vehicles for offensive weapons or dangerous instruments within a specified area and during a specified period of time.” Available as a free download at: http://www.equalityhumanrights.com/uploaded_files/ehrc_-_briefing_paper_no.5_-_s60_stop_and_search.pdf

Prisons

Fatally flawed: has the state learned lessons from the deaths of children and young people in prison? Anna Edmundson, Deborah Coles, Rebecca Nadin and Dr Jessica Jacobson (*Prison Reform Trust and INQUEST*) 2012, pp. 68. This evidence-based report examines the treatment of children and young people who died in prison custody in England and Wales and analyses examples of the deaths of children and young people (18-24) while in the care of the state between 2003 and 2010. The analysis reveals systemic failings that have contributed to some deaths of young people, who were “often overlooked and neglected in a regime that does not differentiate between young adults and adults” and where “there is little institutional understanding of, or attention to, their specific needs.” Available as a download at: <http://inquest.gn.apc.org/website/publications/fatally-flawed>

Women’s prisons in desperate need of reform, says former governor, Clive Chatterton. *The Guardian* 11.2.12. This article records the resignation of prison governor Clive Chatterton who spent 37 years working in prisons, but found that his final job at Styal women’s prison left him “disturbed and bewildered.” In this piece Chatterton condemns the use of short-term sentences that put thousands of women in prison annually, argued that the government should vigorously pursue alternatives to jail and has called for a “warts-and-all review of the aims and intent of the use of custody.” Chatterton describes the levels of self-harm among women prisoners as “staggering” and said: “I have first-hand experience of the devastating impact both to the family unit and society as a whole when a woman is sent to prison...homes are lost and then various agencies become involved in attempts to rehouse, kids go into care and so forth, it is vicious, costly and traumatising.”

Racism and Fascism

Findings about Racist Violence in Greece 1.1.12 – 30.9.12. *Racist Violence Recording Network* 23.10.12, pp. 6. The RVRN was set up at the initiative of the National Commission for Human Rights and the office of the UN High Commissioner for Refugees in Greece and consists of 23 NGOs and other bodies. Its report, which covers incidents of racist violence during the first nine months of 2012, describes “an immense increase in racially motivated violent attacks in Greece” which “does not represent the real extent of this phenomenon in the country.” Using victim’s testimonies the network recorded 87 incidents of racist violence against refugees and migrants, over half of which were planned attacks attributed to fascist groups such as the Golden Dawn; another distinct category of 15 attacks are linked to police and racist violence. The network found that the main problems rest with the inability or unwillingness of the criminal investigation authorities to record incidents, to investigate the cases thoroughly and to arrest perpetrators while in other instances the authorities have deterred those who do not have legal residence papers from reporting racist violence incidents to the police. Based on its research the RVRN makes a series of recommendations to the Ministry of Public Order & Citizen’s Protection and the Ministry of Justice. Available at: <http://lagainstracism.gr/racist-violence-recording-network-findings/>

The New Geographies of Racism: Peterborough, Jon Burnett. *Institute of Race Relations* 2012, pp. 14. This is the third in a series of detailed investigations of areas in the UK that have experienced specific manifestations of racist attacks, (the previous two reports focussed on Plymouth and Stoke.) Peterborough” has been described by the tabloid press as “Britain’s migrant shambles” (*Daily Express*) or “the town the Poles took over” (*Daily Mail*) fuelling racist attacks that have involved vicious beatings and firebombings. The report examines the patterns of racist violence which have emerged over the last decade, including hate campaigns against asylum seekers, the hounding of migrant workers and attacks on more long-standing communities. It locates these attacks within their political context, examining responses by local and central government and using interviews with migrant workers and community activists to reveal the resistance to this onslaught. Available as a download at: <http://www.irr.org.uk/news/the-new-geographies-of-racism-peterborough/>

Report on the policing of the English Defence League and Counter Protests in Leicester on 4th February 2012. *Netpol* 2012, pp. 12. This report highlights a number of concerns about the response by police and local council to plans for a protest against a demonstration by the Islamophobic English Defence League in Leicester. The report provides evidence that “Leicester City Council, in association with Leicester Constabulary, undertook a wide ranging programme to dissuade local people from engaging with or taking part in lawful marches and assemblies” countering the racists and questions the use of public money to do this. Netpol argues that the decision also raises serious questions in relation to the right to freedom of assembly and expression. The report also condemns the use of the Children Act to intimidate youngsters from joining the protests against the EDL. : <http://www.scribd.com/doc/96993341/Report-on-the-Policing-of-the-EDL-and-Counter-Protests-in-Leicester2012>

Security and intelligence

Secret Prisons and Renditions Investigation: Further Revelations of CSC-contracted flights between Morocco, Lithuania and Afghanistan (CSC Lithuania flights. Additional Dossier A). *Reprieve* 10.9.12., pp4. The legal human rights charity, Reprieve, has released new information showing how contractor Computer Sciences Corporation (CSC) arranged covert flights connecting Lithuania to other countries in the CIA’s secret prison network, including Morocco and Afghanistan. Lloyds Banking Group is one of the leading City institutions criticised for investing in the US corporation. Reprieve has written to CSC investors asking them to put pressure on the company to take a stand against torture. CSC” was also one of the main contractors for the botched NHS electronic patient record (EPR) IT system. It has refused to comment on the claims of collusion in rendition. http://reprieve.org.uk/static/downloads/2012_09_07_PUB_CSC_Lithuania_flights_dossier_NOTES.pdf

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- 9 **Italy: "Open-ended emergencies" three years on** by Yasha Maccanico. Repeated renewals of "emergency" powers have allowed for the continued deployment of thousands of soldiers on Italian streets and the extension of the "nomad emergency," under which authorities have been able to conduct forced evictions, close down unauthorised camps and segregate Roma in derogation of human rights laws.
- 14 **Perfidious Albion: Cover-up and collusion on Northern Ireland** by Paddy Hillyard. The British government's dealings have been characterised by cover-ups, deceit and perfidiousness. With collaboration between British security forces and loyalist paramilitaries, obstruction of investigations, refusal to hold public enquiries, and new forms of intelligence-led policing which allowed informers to act with impunity.
- 20 **New material - reviews and sources**

Statewatch Analysis: How the EU works and justice and home affairs decision-making by Tony Bunyan:
<http://www.statewatch.org/analyses/no-205-cleu.pdf>

Statewatch and the Transnational Institute: Neo-ConOpticon: The EU Security Industrial Complex: by Ben Hayes:
<http://www.statewatch.org/analyses/neoconopticon-report.pdf>

Statewatch European Monitoring and Documentation Centre (SEMDOC)

<http://www.statewatch.org/semdoc>

and

SEMDOC JHA Archive (1976-2000)

<http://www.statewatch.org/semdoc/index.php?id=1143>

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