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First thoughts on the EU's internal security strategy

by Tony Bunyan

The EU has just adopted an Internal Security Strategy. Here the origins of the concept of “internal security” and the UK’s National Security Strategy are examined and poses the question of what lessons can be learnt when looking at the embryonic EU plans.

“Internal security” is a term much used by national governments, law enforcement and security agencies though little understood outside of their circles. It involves the state bringing together the activities of all of the agencies at national, regional, local and community level into one overall plan to protect and maintain internal security.

Internal security embraces everything from border controls to public order, from civil disasters (eg: floods) to counter-terrorism, from surveillance (eg: using undercover sources) and intelligence-gathering (eg: using monitoring internet usage) to tackling crime, from drug trafficking to critical infrastructures.

Internal security brings together the operations and work of the police (including para-military units), immigration and customs, internal security agencies, civil contingency planning, the military, judges and courts, national and local government, hospitals and fire-fighters, multi-national companies and small businesses, schools, universities and civil society. In preparation for threats to internal security, laws on emergency powers or civil contingencies or crisis management are in place which can be applied locally or nationally (including new powers of arrest and detention and “rules of engagement”). People perceived to be “threats” to internal security are portrayed as “enemies of the state” or “enemies of the people”.

On the one hand, a states’ internal security plan protects people from attack and injury and rescues them from floods and catastrophes. On the other, it maintains public order (ie: policing protests) and seeks to maintain the status quo (both political and economic).

History tells us that when it comes to a choice between the health and safety of the people and the security of the state and the status quo there is little doubt which interest will be protected. History also tells us that only a state can organise an internal security strategy - now the EU is developing its own.

The origins of “Internal security”

The concept of “internal security” is as old as the nation state, although this exact term was not used until the early 20th

century. “External threats” were seen as coming from “foreign” enemies and “internal threats” from a domestic “enemy” through their open defiance of the status quo.

In the late 19th and early 20th century the vast British Empire – which covered a quarter of the globe - was run on the basis that defence of the status quo in all of its colonies was a defence of the “homeland” (ie: to ensure the continued exploitation of labour and natural resources). Later, faced with demands for independence by non-violent and armed insurrections across the Empire, the modern concept of “internal security” emerged during more than fifty counter-insurgency operations after 1945. The British “model” in Malaysia was copied by the USA in Vietnam and then adapted for use in Northern Ireland.

The concept of “internal security” evolved from seeking to combat insurrection to countering “subversion”. One of the architects of modern day “internal security” was Brigadier Frank Kitson, who developed these ideas while seeking to counter insurgents in the British colonies of Malaya, Kenya and Cyprus.

He defines “subversion” as:

the use of political and economic pressure, strikes, protest marches and propaganda

and extends the definition to groups of people seeking to:

force them [governments] to do things which they do not want to do. [1]

The same phraseology is reflected in the EU definition of “terrorism”, adopted in 2001, which extends terrorist acts to include:

unduly compelling a Government or international organisation to perform or abstain from performing any act

Internally it has always been the job of the modern state to maintain the status quo and law and order, and in times of crisis (perceived or real), to coordinate all the agencies of the state at the national level.

In the UK a National Security Plan was adopted in the early 1970s (incorporating military, political, legal, sociological,

UK: Will the imprisonment of children at Yarl’s Wood end? see page 7

France: Expulsion of Roma undermines EU’s founding principles see page 16

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psychological and ideological factors) and covered internal security and “civil defence” (now civil contingency planning) and was in effect:

a defence against civilians; it protects the government against its people[2]

The current UK National Security Strategy was adopted in March 2008. One of the architects was Sir David Ormand, who had been the UK Security and Intelligence Coordinator in the Cabinet Office (and previously been Director of Government Communications Headquarters, GCHQ, the UK equivalent of the US’s NSA). In a publication for the Institute for Public Policy Research (IPPR) Ormand says that the implications of the Strategy for the intelligence community include the adoption of anticipatory policies towards future threats.[3]

He uses the example of local problems being tackled at the local level at the same time as national authorities take on the international dimensions:

The national intelligence authorities will be expected to both ensure that the local enforcement level - including police, border forces and other local authorities - have the necessary information, and to help manage the international dimension of these domestic threats.

This is a description of the vertical, “top-bottom”, aspect of internal security.

“Anticipatory policies” are intended to “allow disruption” of the threat, to pre-empt them by “authorising covert actions” where “governments cannot afford to be seen to be directly involved”. To use these tactics to “disrupt” the activities of known terrorists or drug dealers is one thing. But if these same practices are extended to those who have “come to their notice” or friends of these people or to those who have radical views or are organising a demonstration on what is perceived to be a sensitive issues it is another matter altogether.

In the article Ormand says that modern national security needs three types of intelligence: traditional secret sources, open sources and an entirely new one: “personal protected data”.

Traditional secret sources: the “heart” of secret intelligence is human sources (HUMINT, undercover agents and paid/unpaid participants) and the interception of communications. These are backed by SIGINT (Signals intelligence), IMINT (photo-reconnaissance), ELINT (electronic intelligence) and MASINT(measurement and signature intelligence). However, these secret sources are increasingly “dwarfed” by OSINT(Open source intelligence) trawled from the internet.

The new third category is PROTINT(“protected information”).

This is personal information about individuals that resides in databases, such as advance passenger information, airline bookings and other travel data, passport and biometric data, immigration, identity and border records, criminal records, and other governmental and private sector data, including financial and telephone and other communications records. Such information may be held in national records, covered by Data Protection legislation, but it might also be held offshore by other nations or by global companies, and may or may not be subject to international agreements.”

Ormand argues that PROTINT and the ability to use “data-mining and pattern recognition software” may be vital to pre-empt terrorism. However, the history of MI5, the internal security agency (and Special Branch) shows that capabilities developed to tackle terrorism are quickly extended to all areas of law and order.

PROTINT sources have always been made available when the police have hard evidence against a suspect but the:

application of modern data mining and processing techniques does involve examination of the innocent as well as the

suspect to identify patterns of interest for further investigation (emphasis added).

and:

Obtaining international agreement on the sharing of such data will become increasingly important in order to ensure access to these vital sources.

Ormand conceded that these kinds of intelligence operations are “finding out other people’s secrets” which breaks “everyday moral rules”. He concludes that:

public trust in the essential reasonableness of UK police, security and intelligence agency activity will continue to be essential. (emphasis added)

An historical view of the activities of UK state agencies suggests that the presumption of their “reasonableness” is not one to which everyone would subscribe. [4]

The challenge for the Security Strategy he suggests is how to gather intelligence on the “suspect” and the “innocent” (ie: all of us) with access to:

the full range of data relating to individuals, their movements, activities and associations in a timely, accurate, proportionate and legal way, and one acceptable in a democratic and free society

If you trust the “reasonableness of the police, security and intelligence agencies” this is fine. But in a democracy, such power and trust should never be given to agencies which are traditionally secretive, unaccountable and often act outside the rule of law.

The UK’s National Security Strategy and the role of its intelligence and security agencies is highly developed. The EU is now embarked on the same path though it is as yet in an embryonic stage.

The EU’s Internal Security Strategy

The EU has been waiting for years to launch its own Internal Security Strategy (ISS) and to create the Standing Committee on Internal Security (COSI), which will be responsible for developing the ISS - were both foreseen under the then-EU Constitution (later replaced by the Lisbon Treaty). Back in 2003 it was thought that the EU Constitution would be in place by 2005-6. In the event the Treaty and the Stockholm Programme both came into effect at the beginning of 2010.

What these two developments have in common is that they represent a sea-change in the fast-growing European state. The adoption at the beginning of 2010 by the Council of the European Union (the 27 governments) of an embryonic “Internal Security Strategy” was based on an unspoken assumption. Namely, that the EU state will lay down the matrix for coordinated analysis, planning and operations to be pursued at

European, national, regional and local levels embracing all the “players”. The Council Presidency document, “Towards a European Security Model” [5], says that:

The concept of internal security must be understood as a wide and comprehensive concept which straddles multiple sectors

The “players” extend way beyond state agencies (police, immigration, internal security agencies and the military):

to reach an adequate level of internal security in a complex global environment requires the involvement of law-enforcement and border-management authorities, with the support of judicial cooperation, civil protection agencies and also of the political, economic, financial, social and private sectors, including non-governmental organisations.

The concept of internal security embraces horizontal and vertical cooperation both at the national and European level. Horizontally by linking all the main agencies in the national

states and the European state to a common purpose, programme, intelligence and technology. Vertically, to link all active elements at regional, local and community level to the framework set out above. This includes law enforcement, the judiciary and civil protection, regional and local government, businesses, universities and schools and civil society.

Essential building blocks for an internal security strategy are the existing EU concepts of the “principle of availability” (state-held information and intelligence available to all national agencies), the “principle of operability” (ie: to allow automated access for national and EU databases) and the “principle of convergence” (ie: EU training for one-third of national police forces by 2014 and the purchase EU-wide software licences to save money).

The EU argues there is an intrinsic connection between “internal” and “external” security”. Of course there can be connections between “internal” and “external” threats. During the Cold War the Soviet Union and “communism” were perceived as an “external threat” and the Communist parties and their “sympathisers” seen as an “internal threat” in Western Europe. However, the common definition of “sympathisers” often extended to the extra-parliamentary left which openly opposed Soviet-style “communism”.

Today we see, for example, that people fleeing war, poverty and persecution in the Third World who seek to come to Europe are one of the major perceived “threats”. They are presented as potential terrorists or criminals or as an economic burden. Migrant communities, many of whom have been in the EU for decades, are similarly seen as potential threats.

The “fear” of “threats” is fuelled by EU agencies. A few years ago a Europol official was caught off-guard by the media and was quoted as saying that over 500,000 “illegal” migrants entered the EU every year. There was no factual basis for this statement as, logically, Europol had no idea how many undocumented migrants had entered the EU, it was a pure guess. Yet just this year the official “Joint Report by Europol, Eurojust and Frontex on the State of Internal Security in the EU” states that there are an:

estimated 900,000 illegal immigrants entering the EU each year[5]

Such statements are sheer guesswork, irresponsible, and serve to fuel racism.

Protestors have become another “threat” following the cross-border protests in Gothenburg and Genoa (2001), Davros, Heiligendamm at the G8 meeting in Germany, Copenhagen(2009) and recent protests in Brussels. And the EU is currently considering creating a database of suspected “violent troublemakers”.

Thus each generation of the EU elite finds new internal “threats” and ever changing “enemies within”.

Ideology and internal security

After 11 September 2001 the ideological rationale was first argued in terms of the “war on terrorism” - and more directly in terms of “counter-terrorism”. The EU lexicon now rarely uses “the war on terrorism”. Indeed the public is becoming tired of its constant use, according to the EU’s Counter-Terrorism Strategy:

Amid a string of other global crises with more immediate impact on peoples' lives, there seems to be a growing sense of "CT fatigue".[7]

This is reflected in changing terminology used by the Council. In the Hague Programme (2005-2009) there were twenty references to terrorism and ten to law enforcement agencies (LEAs). The Stockholm Programme (2010-2014) has just six mentions each of terrorism and LEAs and twenty-seven references to security and internal security.

Secondly, the emergence of internal security signals a change

in the scope of what is termed “Home Affairs” in the Council (internal security, immigration, policing and criminal law) and Commission (where it covers internal security and immigration).

The post-Maastricht (1993) justice and home affairs categories of policing, criminal law and immigration and asylum will, in time, be incorporated as part of the internal security plan.

Concepts of “internal security” at national level (like the UK National Security Plan) take “*an all-encompassing approach*” (horizontal and vertical) and include:

- policing
- criminal law
- immigration, asylum and border control
- counter-terrorism
- crisis management (civil contingencies/civil protection)
- civil-military interface
- public-private interface
- national internal security agencies cooperation
- information and intelligence gathering and sharing within (and outside) the EU

One might think that the formally adopted Internal Security Strategy would clarify what it was to cover.[8] However, its scope is scattered throughout its 18 pages so *Statewatch* made a list for the sake of clarity:

- terrorism
- serious and organised crime
- drug trafficking,
- cyber crime
- trafficking in human beings
- sexual exploitation of minors and child pornography
- economic crime,
- corruption
- trafficking in arms
- natural and man-made disasters
- crime in general
- critical infrastructures
- document fraud
- money-laundering
- petty and property crime
- youth violence
- hooligan violence
- petty or property crime
- major international events (inc public order/protests)
- football matches and sports events
- and “road traffic accidents”

This “list” is essentially pulling together of existing and ongoing initiatives which fall far short of being a comprehensive internal security strategy.

However, the first indication of how the Internal Security Strategy might develop is given in the draft Council Conclusions on the creation and implementation of an EU policy cycle for organised and serious crime. [9] This first “policy cycle” sets the structure:

- clarify “the division of tasks between the Union and the Member States
- follow the principle of solidarity
- have a “proactive and intelligence-led approach” and
- ensure “stringent” cooperation between the Union agencies including “improving their information exchange”.

The present Organised Crime Threat Assessment (OCTA) is to become EU SOCTA (EU Serious and Organised Crime Threat Assessment) from 2013 backed by Multi-Annual Strategic Plans (MASPs) and annual Operational Action Plans (OAP) in a four year policy cycle. Member States’ and EU agencies are to be tied into the EU’s SOCTA - for example, through integrated reporting mechanisms and “National Intelligence Models” are to be “Aligned” to the European Crime Intelligence Model (ECIM).[10]

Prevention and “anticipation”

A new, dangerous, concept, originating in the Future Group report on justice and home affairs, is that of “anticipation”.^[11] The Stockholm Programme has over twenty mentions of “prevention” but the concept of:

prevention and anticipation (emphasis added)^[12]

is new. It is spelt out in a section on the ISS which says it is based on a “proactive and intelligence-led approach”. One of the examples given is described as follows:

Cooperation should therefore be sought with other sectors like schools, universities and other educational institutions, in order to prevent young people from turning to crime.... Civil society organisations can also play a role in running public awareness campaigns.

This could employ analytical tools and early-warning system so:

that we are not only prepared for the outcomes of future threats but also able to establish mechanisms to detect them and prevent their happening in the first place.

This concept of “anticipation” implies built-in scenarios or profiles of people or activities which would require state intervention well prior to the assumed “threat” moving anywhere near to reality. For example, a group of people might discuss far-reaching ideas but this is a long way from actual planning or being prepared to act on them.

Information and “intelligence”

Supplementary to the adopted Internal Security Strategy are the Council Conclusions on an Information Strategy for EU Internal Security which uses very familiar arguments.^[13] The “principle of availability”, developing IT to “support the collection, storage, processing and analysis and exchange of information” and the “principle of convergence”. They include this seemingly bland statement:

Effective and secure cross border exchange of information is a precondition to achieve the goals of internal security in the European Union” ^[14]

But a Footnote says:

*In this context, information means **information and criminal intelligence** required by the competent authorities and available to them under the relevant framework for the objective of improving the EU internal security of the EU citizens. (emphasis added).*

The term “information” could mean the exchange of “hard” information proposed in the European Criminal Record Information System” (ECRIS) of convictions.^[15] Whereas the exchange of “criminal intelligence” may be “hard” and “reliable” or “soft” and from a dubious source ^[16] as proposed for the European Police Records Information System (EPRIS).

Modern Technologies and Security

It is the reference in the Council’s discussion on Modern Technologies and Security that indicates another new direction - which is in line with the Future Group report and reflected in the Stockholm Programme.

This is based on an earlier key document on this issue from May 2009 which speaks of the “triangle of fundamental values” – “protection of privacy, freedom of movement and security”.^[17] It said:

*there is a general discussion on the **adequacy of intrusions into privacy**, effects on freedom of movement and the added value of the proposal for strengthening security* ^[18]

The crucial conclusion reached is who should be the driving force in the use of “modern technologies”. This is answered,

under the “Practical requirements of the law enforcement community”:

The development of new technologies and systems must be the outcome of requirements and needs of these entities in MS. Therefore it is essential to focus on how newly proposed solutions will contribute to supporting the activities and strengthening cooperation of specific law enforcement entities and those ensuring internal security.

Thus the “users”, the law enforcement agencies and “those ensuring internal security” (an oblique reference to internal security agencies) determine the “needs” and “requirements” for new technologies. Not governments or parliaments or people but the agencies are to determine the direction and use of new technologies. Political decision-making and public discussion are not referred to. And the role of the “users”, based on a “business” model, is to be paramount.

“Common values”

The underlying assumption throughout the discussion on the ISS is that the EU has, and will, “balance” freedom and security and that there is a common commitment to “security, freedom and privacy” based on the EU’s internal security “protecting people and the values of freedom and democracy”. This is summed up as constructing:

an internal security strategy which reflects the values and priorities we all share

and:

Europe must consolidate a security model, based on the principles and values of the Union: respect for human rights and fundamental freedoms, the rule of law, democracy, dialogue, tolerance, transparency and solidarity.

These assumed principles and values are, however, contested by those who view the EU’s development since 2001 as having nearly always favoured security over liberty. Respect for human rights is in no way reflected in its immigration and asylum policies and practices; the rule of law has been bent or cast aside on numerous occasions; democracy is simply viewed as having a vote (which only a minority use) every five years; dialogue cannot take place if there is no transparency and openness in decision-making (ie: access to the documents under discussion); tolerance is a poor substitute for equality.

Conclusion

The EU state is beginning to flex its muscles with its emerging security-industrial complex ^[19], the state-private surveillance society and a free market in the exchange of personal information, ^[20] the proposed EU-PNR, EU-SWIFT and EU exit-entry system, and aggressive new agencies like FRONTEX. When it finally comes together the ISS will embrace these and other initiatives into its operational planning.

The development of internal security in the EU is in its infancy and so far largely brings together initiatives already underway. However, the detailed initiatives taken under the EU “policy circle” being drawn up by the new permanent Standing Committee on Internal Security (COSI) on serious and organised crime will shed light on how far-reaching and how deep the ISS is destined to become when applied to each and every operational area.

Footnotes

1 “Low Intensity operations: Subversion, insurgency and peacekeeping” by Brigadier Frank Kitson (Faber 1971)

2 “Beneath the City Streets” by Peter Laurie, p285.

3 *The National Security Strategy: Implications for the UK intelligence community, IPPR, February 2009.*

4 See *The Political Police in Britain (1977) and the Coercive State (1988)*

5 EU doc no: 5842/10

6 EU doc no: 9359/10

7 EU Counter-Terrorism Strategy - discussion paper, 15359/1/09.

8 Adopted draft Internal Security Strategy for the European Union:

"Towards a European Security Model" (EU doc no: 7120/10,):

<http://www.statewatch.org/news/2010/mar/eu-iss-draft-7120-10.pdf>

9 EU doc no: 13902/1/10

10 . This initiative will be supplemented by the Stockholm Programme's commitment to put 33% of national police officers, 50% of national judges and prosecutors and 50% of other national law enforcement professionals through a European Training Scheme by 2015.

11 The "Future Group" report on Home Affairs set the tone for the Stockholm Programme:

<http://www.statewatch.org/news/2008/jul/eu-futures-jha-report.pdf>

12 EU doc no; 7120-10; oop.cit.

13 EU doc no: 16637/09

14 EU doc no: 16637/09

15 But see the problems with ECRIS, *Statewatch News Online*, January 2009

16 See "The Shape of Things to Come" (*Statewatch*, 2008)

17 EU doc no: 10143/09: *Informal JHA Ministerial Meeting in the field of Modern Technologies and Security*

18 The term "adequacy of intrusions into privacy" appears not to be a slip of the pen as it also appears in earlier drafts

19 See: *Neonopticon: the EU security-industrial complex* by Ben Hayes (*Statewatch*, 2009)

20 See *The Shape of Things to Come* by Tony Bunyan (*Statewatch*, 2008)

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EU: Security at international summits: not for protestors

by Kees Hudig

The institutionalised policing of summit protests by host countries incorporates calculated human rights violations

Protests at international financial and political summits have become a regular occurrence all over the world. Providing security at these events involves large-scale police operations that have become increasingly harmonised among host countries and that, as a rule, infringe protestor's basic political and human rights. A standard procedure is the mass arrest of demonstrators that lacks a legal basis, the majority of whom are released without charge or face broad generic charges. The investment in securing summits, both financial and in terms of personnel is increasing. Furthermore, several institutions to regulate security at summits have emerged at the European and international levels.

G20 in Toronto

The denial of the fundamental right to protest through 'security' measures was seen during the last G20 summit held at the end of June in Toronto, Canada. In fact it was a combined summit of the G8 and the G20. Because of the size of the latter conference, which joined the G8-conference at relatively short notice, the summit took place in central Toronto rather than the rural neighbouring town of Huntsville, the original venue for the G8-summit. This meant the creation of a 'Red Zone' with restricted access and secured by a high metal fence that ran through the city. An estimated 30,000 people, who lived or worked in this area, required special passes to get in (or out) while others were denied access. The Toronto summit had a security budget of US \$ 833 million for "planning and operations related to policing and security" alone; the entire summit cost more than US \$ 1.2 billion. [1]

Even before protests had started, organisers reported alarming infringements of protestor's political rights. The heavy-handed police approach became clear when initial demonstrations were permitted only within police cordons, where everyone was searched before entering. Houses were raided - in one instance the wrong one - and police detained those deemed to be involved in planning activities, as also happened to demonstrators arriving by bus from French-speaking Quebec.

The situation escalated on the second day of the summit (26 June) when the main demonstrations were to take place. A small

group of protestors announced that they would go to the financial centre, adding that they would not shy away from taking militant action. After some damage had been inflicted to offices and shops, and two police cars had been set alight, police began arresting people *en masse*.

Two months after the summit, the Canadian Solidarity Network, which was set up by and for protestors, summarised events as follows:

We now know that between June 21-27, 2010, at least 1,100 people were held for long periods, either on the streets or in a makeshift jail that was built specifically for the purposes of housing people speaking out against the G8/G20 policies. Many thousands more were detained and questioned but we have no reliable way to ascertain exact numbers at this time. Of the 1,100 people actually held, we believe that at least 306 had charges laid against them.

Of these 306, it is our understanding that presently, at least four are still in prison, their bail either denied or they are awaiting bail hearings. Arrests continue to occur with the most recent that we know of taking place in Hamilton on the night of August 26th. Those in jail are Indigenous people, Indigenous solidarity activists, environmental justice activists and low-income people unable to put up large sums of money as bail.

304 people appeared in court on August 23, 2010. 104 of these people had their charges withdrawn or stayed or considered completed by the (in)justice system. Many people were coerced into paying sums of \$50-100 and were 'diverted' or were asked to turn in 'guilty' pleas.

Approximately 33 did so in the end. This was an obvious ploy to allow the police to save face and not explain why the ridiculous charges, long detentions and mental trauma had to take place in the first instance. Many people were told to take the 'deal' or face further repression. Despite this coercion, dozens of people refused to take the 'deal' insisting that they would take their charges to trial to assert their ability to organize in the face of repression.

232 people (at least) continue to face ongoing prosecution and criminalization and will be returning to the courts in the months and years to follow.

Of these 232 people, plus the arrest on August 26th, it is our current understanding that at least 110 face conspiracy and counselling charges. Conspiracy charges do not require authorities to prove that any so-called illegal activity even took place, only shared intent or encouragement of so-called illegal activity. The test for evidence is sufficiently lowered for conspiracy charges and is thus an easy way for the police and the courts to criminalize dissent and silence outspoken critics. This is one of the most worrisome tactics of the G20 'security' attack and the establishment of the Integrated Security Unit and must be loudly and publicly opposed. Of the people facing conspiracy and/or counselling charges, two are presently in prison, while the courts and the prosecution are attempting to put two back in jail.

18 or so that face the gravest conspiracy charges have been released on extremely difficult bail conditions. Many are under house arrest, unable to use laptops, cell phones, and internet, associate with loved ones or friends or join or organize public demonstrations..."

(Community Solidarity Network communiqué 30.8.10) (<http://g20.torontomobilize.org/node/475>)

South Korea in November

The next G20-summit will be on 11-12 November 2010 in South-Korea. Trade Unions opposed to the austerity measures promoted by the G20 and implemented by local government, plan to protest at the summit and the government has announced that it will use a staggering 400,000 police officers to counter demonstrations. [2] The pattern set at Toronto looks set to repeat itself.

The progressive newspaper, *Hankyoreh*, made the following observations on the planned measures:

"Street vendors are disappearing from Seoul. The reason is the "street stall cleanup effort" undertaken by the city, which has formed 88 "special street maintenance teams" totalling around 400 people for the G-20 summit. Meanwhile, migrant workers are quaking with fear about possible deportation. On the pretext of "establishing public order for the G-20 summit," the National Police Agency recently embarked on a full-scale crackdown on foreigner crime, and the Justice Ministry has been undertaking a focused crackdown on undocumented migrant workers.

A number of measures that have emerged in the name of preparations for the two-day, one-night event attended by foreign heads of state are prompting concerns about human rights violations. Full-body scanners for airport security searches were installed at four airports on June 30, including Incheon and Gimpo International Airports. The National Human Rights Commission of Korea (NHRCK) commented on the problematic nature of the scanners, but the government went ahead with plans.

A "Special Law on Escort Security and Terror Prevention in order to successfully host the G-20 summit" passed the National Assembly in May amid objections from civic groups, which called it "an unconstitutional notion of actually using military forces to prevent assemblies and demonstrations from taking place." Meanwhile, the Justice Ministry will be requiring all foreigners entering the country as of August 15 to provide fingerprint and facial identification information."

(The Hankyoreh 7.7.10:

http://www.hani.co.kr/arti/english_edition/e_national/429239.html)

A general pattern

As globalisation proceeds and international summits become more important as - often symbolic - policy events, the security around them has become increasingly institutionalised. In his dissertation, sociologist Christian Scholl studied security operations around six recent summits in Europe. His findings are published in the book *Two Sides of a Barricade; (Dis)order and summit protests in Europe*. [3] It reveals the extent of authorities' plans to suppress protests and the degree of international cooperation. Scholl describes this development as a continuous process of "mutual disturbance" (protesters trying to disturb the summit vs. authorities trying to disturb the protestor's plans). Particularly alarming, although not unsurprising, is the increasing amount of media manipulation and 'psy-ops' applied to these policing operations.

Another largely overlooked fact, is the growth of the European (and international) security-industrial complex through institutions such as the European Gendarmerie Force (EGF, with its headquarters in Vicenza, Italy), the European Police Training College (EPTC) and the European Security Research Program (ESRP). [4]

Managing crowds

Research by activists opposed to the 2007 G8-summit in Heiligendamm, Germany, describes the extent of international cooperation around its security. [5]

In the Alt-Spenrath surface mine, German, British and Dutch police practiced how to expel demonstrators. Water canons from the participating countries were brought in [...] the police in Baden-Württemberg organised a comparable training exercise with Swiss police, to prepare for combined operations during the European Soccer Championship in 2008. [...] At the European Police Academy (CEPOL) in Hampshire, Great Britain, tactics and collaboration were analysed. EU Member states are required to participate in the "Instruction, Training and Exertion (ITE) programme..."

The basis for international police cooperation was the Prüm Convention (Schengen III), signed by Germany, Luxembourg, Belgium, Spain, The Netherlands, Austria and France in 2005. [6] With non-EU states, such as Switzerland, bilateral conventions were signed.

As a rule a few days before a summit the Schengen-convention is suspended and border controls are reintroduced. Thousands of activists have been denied entry to participate at larger summit protests, following the exchange of information on them. Less well known is the fact that protestors are hindered from travelling by their own authorities. It is thought that this first happened to German demonstrators at the 2001 Genoa G8 summit, when people deemed to be "troublemakers" had to present themselves daily at their local police station"

After the Genoa and Gothenburg summit protests in 2001 EU working groups were created to develop security standards. The EU Council's Football Handbook became the basis for the Police Handbook for public order. Then the Handbook for security at large international events in the EU was published. In 2007 they were amalgamated into one Handbook covering both public order (protests) and counter-terrorism.

There is also cooperation with countries outside the EU. In 2006 the International Permanent Observatory on Security during Major Events (IPO) began as a working group in the UN with a headquarters in Turin, Italy. The IPO advises and aids national governments on relevant security questions

Footnotes

1. BBC report 24 June 2010: <http://www.bbc.co.uk/news/10385483>
2. Korea Times 3.8.10 (<http://www.koreatimes.co.kr/website/faulters?>)

3. University of Amsterdam 2010: <http://dare.uva.nl/record/342633>
- 4) A handy overview can be found in this presentation-factsheet: http://euro-police.noblogs.org/files/2010/08/factsheet_2010.pdf
- 5) See *Managing Crowds*: <http://www.gipfelsoli.org/Home/7839.html>
- 6) See <http://www.statewatch.org/news/2005/aug/Pr%FCm-Convention.pdf>

UK: Will the imprisonment of children at Yarl's Wood end?

by Trevor Hemmings

After a decade of academic, medical and legal evidence demonstrating that the detention of families seriously damages their mental and physical health the Conservative-Liberal Democrat coalition has announced that it will end child detention. However, separating children from their parents also causes untold harm.

Yarl's Wood Immigration Removal Centre was the government's "flagship" detention centre built near Clapham, in Bedfordshire. It opened in November 2001 and was designed to hold up to 900 detainees, mainly women and children (some as young as three months old), making it the largest detention centre in Europe at the time. It cost approximately £100 million to construct and no expense was spared on its security measures, which included scores of fixed and moving cameras, microwave detection units and chain-link fencing two and a half metres high topped by barbed wire. [1] Throughout the centre's existence there have been a series of hunger strikes by detainees and protests by campaigners alleging institutionalised racism and abuse. These claims have been justified by a number of highly critical investigations, which recorded detainees suffering serious damage to their mental and physical wellbeing.

In December 2001, shortly after opening, the first hunger strike began with detainees complaining that they were being treated like prisoners although they had not committed any crime. In early February 2002, much of the centre was burnt down following protests triggered after an elderly Nigerian woman was physically restrained by staff after she requested permission to attend church. At the trial of 11 male detainees charged in connection with the fire (four of whom were convicted of affray or violent disorder), the question was raised as to whether the decision to prevent police and fire-fighters gaining access to the centre put the lives of detainees at risk.

Private security company, Group 4, had ordered staff to leave the building, locking detainees inside. Five people were injured and it later emerged that the government had failed to install fire safety equipment because of its expense. In the aftermath of the fire, the Fire Brigades' Union criticised the decision to leave 250 asylum seekers incarcerated in the centre in "unsafe" conditions and it also condemned the Home Office's failure to fit sprinklers. Although there was an investigation, no members of Group 4 were ever prosecuted. [2] The centre reopened the following year after an estimated £40 million refit.

In March 2004, the Prisons and Probations Ombudsman published a report into allegations of racism, abuse and violence by staff, based on claims made in an undercover report by the *Daily Mirror* newspaper. The article produced evidence of a number of racist incidents, and staff were disciplined – but not prosecuted – following publication of the paper's findings. The report also found that an allegation of assault had not been adequately investigated. In October 2004, the Prisons and Probations Ombudsman published an inquiry into the earlier disturbance and fire. A main finding was that the provision of safety equipment (sprinklers) would have prevented the damage caused to the centre. In February 2005, a local fire chief complained that the lessons of the fire had not been learnt when the government persisted in refusing to introduce sprinklers. [3]

Manuel Bravo, an asylum seeker from Angola, was found hanging in a stairwell at the centre on the morning of his 35th birthday in September 2005. He was in detention awaiting deportation with his 13-year old son following a dawn raid at his home. A note left in his room said:

I kill myself because I don't have a life to live any more. I want my son Antonio to stay in the UK to continue his studies".

Manuel had claimed that he had not received a decision on his asylum appeal and therefore did not understand why he had been served with a deportation order.[4]

In February 2006, the Chief Inspector of Prisons published an investigation into the quality of health care at the detention centre which found substantial gaps in provision and made 134 recommendations. [5] Ann Owers' "most important concern...remained the detention of children". In the same year a Legal Action for Women (LAW) study found that 70% of women detained had reported fleeing rape and that nearly half of them had been detained at the centre for more than three months. It found that 57% lacked legal representation. The women also told the researchers of sexual and racial intimidation by private security guards. [6] The PCS trade union is campaigning for a ban on members of racist organisations from being employed by the Home Office and UK Borders Agency (UKBA). [7] In May 2007 another hunger strike began which involved over 100 women.

In February 2008 the Chief inspector of prisons, following an inspection of Yarl's Wood, wrote:

The plight of detained children remained of great concern. While child welfare services had improved, an immigration removal centre can never be a suitable place for children and we were dismayed to find cases of disabled children being detained and some children spending large amounts of time incarcerated. We were concerned about ineffective and inaccurate monitoring of length of detention in this extremely important area. Any period of detention can be detrimental to children and their families, but the impact of lengthy detention is particularly extreme.[8]

The Children's Commissioner has a statutory duty to promote awareness of the views and interests of children, particularly regarding their physical and mental health and emotional wellbeing, their education, training and recreation and protecting them from harm and neglect. Two thousand children are detained annually for administrative purposes for immigration control, the majority of them in Yarl's Wood. The Commissioner has visited the detention centre three times because of his "profound concern over the treatment and management of children in that location."

After his second visit in May 2008 he published a report, *The*

Arrest and Detention of Children Subject to Immigration Control, [9] based on interviews with detained children and their families. He states unequivocally that “the administrative detention of children for immigration control must end” and that “the UK should not be detaining any child who has had an unsuccessful asylum claim.” Recognising that the process was unlikely to end under the Labour administration, he “called upon Government to ensure that detention genuinely occurs only as a last resort and for the shortest possible time following the application of a fair, transparent decision-making process.” However, the average length of incarceration for children at Yarl’s Wood rose from eight to 15 days, although some children remain for more than a month and at least one child had been detained for more than 100 days.

The Childrens Commissioner also found that children had been denied urgent medical treatment, handled violently and left at risk of serious harm. In one instance, the report details how children were transported in caged vans and watched by opposite sex staff as they dressed. The report also contained detailed recommendations for the UKBA - the authority responsible for enforcing the UK’s immigration laws - relating to “many highly unsatisfactory aspects of the process of arrest, detention and enforced removal of children and their families.” UKBA formally responded in August 2009.

The report made 42 recommendations, emphasising six “top-line” ones that underpinned Aynsley-Green’s conclusions. Most importantly, and based on his finding that many of the children held at the centre found their experience “like being in prison”, he recommended the end of the administrative detention of children for immigration purposes.

Following the publication of the report, Lisa Nandy, Policy Adviser at The Children’s Society, argued that the lack of healthcare provision for children at Yarl’s Wood, put lives at risk:

This report reflects what we are seeing on the ground today with families who are currently detained in Yarl’s Wood...As the report concludes, poor healthcare provision is literally putting children’s lives at risk. Extremely ill children have been detained and denied access to essential medication, health records haven’t been checked and children whose health has deteriorated rapidly in detention have not been released. Children who had to be hospitalised were surrounded by armed guards in hospital, causing them ‘profound distress’. It is outrageous that children in the UK are subject to such inhumane treatment at the hands of the state.[11]

Also commenting on the report, Amanda Shah, Assistant Director-Policy at Bail for Immigration Detainees (BID), added that the government paid no regard to the welfare of children and could not even be bothered to keep records on the numbers detained:

The trauma experienced by children in detention comes across very strongly...They describe being transported in caged, urine soaked vans, separated from parents and not being allowed to go to the toilet. There is no proper provision to deal with their psychological distress, directly caused by the Government’s detention policies. As the report makes clear, these children are not being detained as a last resort or for the shortest period of time, as the Government often claims. All the available evidence shows children are detained for longer periods with little or no regard for their health or welfare, falling far short of the UK’s international obligations. Some children are detained repeatedly, and others for very lengthy periods. The Government cannot refute these claims because it does not even bother to count how many children it detains.[12]

In November 2009 the Home Affairs Committee released a report in which it also expressed concerns at the detention of children in what was “essentially a prison”. However, it fell short

of accepting that families and small children should not be locked up in the first place. [13] At the same time a briefing by health practitioners, entitled *Significant Harm*, argued that the “detention [of children] is unacceptable and should cease without delay”. [14] It found that children were suffering significant harm because they had no access to basic medical care and were being left in pain or significantly traumatised.

Another hunger strike at the centre began in February 2010 when over 70 women protested at poor conditions, being separated from their children, poor health and legal provisions and long periods of detainment. The women also said that they had been subjected to racial and physical abuse when guards locked them in an airless corridor for eight hours to isolate them from other inmates. Serco, the privatised company now running Yarl’s Wood, and the UKBA refused to confirm the number, nationality and status of the hunger strikers in an attempt to stifle publicity. So-called “ringleaders” were moved to prisons (HMP Holloway and HMP Bronzefield). [19]

Despite these attempts to prevent information from emerging, supporters ensured that the womens’ voices were heard. Victoria Odeleye (32), who moved to the UK from Nigeria six years ago, said:

We need our cases looking at. I have a little girl and am not a criminal but I have been locked up in here for 15 months and no one can tell me when that will change.

This prompted the previous government’s junior Home Office minister, Meg Hillier, to write to Labour MPs condemning the “current misreporting, based on inaccurate and fabricated statements” made by the detainees. She writes of healthcare at the detention in glowing terms and describes supporters of the imprisoned women as “irresponsible”, blaming them for causing “unnecessary distress to the women of Yarl’s Wood, their family and friends.” These comments only make any sense if the voices of hunger-strikers, and their supporters can be silenced and are unheard.

In contrast to Hillier, another Labour MP, John McDonnell, tabled a Parliamentary Early Day Motion (No. 919) on the “Hunger strike at Yarl’s Wood immigration removal centre” on 23 February reflecting the womens’ experiences:

this House notes that women detained in Yarl’s Wood Immigration Removal Centre have been on hunger strike since 5 February 2010 in protest against being detained for up to two years; condemns the detention of victims of rape and other torture, of mothers separated from their children and anyone who does not face imminent removal; believes that such detention flouts international conventions and UK immigration rules; requests that HM Inspector of Prisons urgently carries out an independent investigation into reports of violence, mistreatment and racist abuse from guards, being kettled for over five hours in a hallway, denied access to toilets and water and locked out in the freezing cold, which women have made to their lawyers, the media and supporters, including the All African Women’s Group and Black Women’s Rape Action Project; and calls for a moratorium on all removals and deportations of the women who took part in the hunger strike pending the results of that investigation. [22]

The Children’s Commissioner published a follow-up report in February 2010 [15] which coincided with the hunger-strike and bore witness to many of the womens’ claims. In particular, he considered whether the arrangements now in place had addressed his earlier concerns regarding the experiences of children. Acknowledging that some of his previous recommendations had been implemented (such as stopping the use of caged vans to transport children to the centre) he nevertheless endorsed his earlier finding that Yarl’s Wood remained “no place for a child”:

We stand by our contention that arrest and detention are inherently damaging to children and that Yarl’s Wood is no

place for a child.

In addition he raised new “significant concerns” about the physical and mental wellbeing of children, observing behavioural changes on and after their incarceration. In one incident at the detention centre a nurse failed to recognise that a young girl had a broken arm, and she had to wait 20 hours before being granted access to a hospital. These concerns echo those of leading medical practitioners, such as Dr Rosalyn Proops, officer for child protection at the Royal College of Paediatrics and Child Health, on the children’s psychiatric and developmental welfare. She supported the Commissioner’s call for an end to child detention:

We are very concerned about the health and welfare of children in immigration detention. These children are among the most vulnerable in our communities and detention causes unnecessary harm to their physical and mental health. The current situation is unacceptable and we urge the Government to develop alternatives to detention without delay.[16]

Despite the Commissioner’s criticisms regarding the “distressing and harmful” effects of detention on young children and the weight of expert medical and psychiatric opinion, Home Office minister, Meg Hillier, insisted that the detainees and their supporters had simply got it wrong. This echoed the Labour government line that the treatment of children with “care and compassion is an absolute priority for the UK Border Agency.”

This was shown to be the case in February 2010 when the Home Office announced that it would opt out of the EU directive stipulating the minimum standards for the treatment of asylum seekers. [17] Home Office minister, Lord West, claimed that: “This [new directive] would stop us operating our existing detained fast-track system, which decides easy and fair decisions on the applicants who go through it.”

The Labour government’s, decade-long insistence on its policy to lock up vulnerable families, despite the weight of academic, medical and legal evidence showing that the detention of children seriously damages their mental and physical health, promised to come to an end after the general election in May 2010. Both the Conservative Party and the Liberal Democrats had pledged to end the detention of children during the general election campaign, with Tory leader, David Cameron, pledging to end the “incarceration of children for immigration purposes for once and for all”.

However, there has been little progress since the government’s review of child detention by the UKBA between May and July 2010 [18]. The Agency was tasked to find alternatives to child detention, but documents leaked to *The Guardian* newspaper in August suggest that the priority is enhancing removal rates rather than humanitarian considerations. The Manchester City Council paper revealed that UKBA is concerned that ending detention could give family’s an opportunity to publicise their situation and launch defence campaigns, perhaps involving other parents and children, teachers and even MPs, which could lead to “significant public order problems.” The document suggests that the oxygen of publicity could be countered if families were given a two week ultimatum to leave and not be given exact details of their deportation “so that they are not prepared” and unable to mobilise support.

In July the High Court ruled the Home Office policy that denied some refugees a last-minute appeal against deportation unlawful, as was the practice of arresting failed asylum-seekers late at night or early in the morning in preparation for rapid removal from the UK. [19] Refugee support groups had long campaigned against these late night raids on vulnerable people and the ruling clearly has implications for UKBA’s proposals for child asylum seekers and their families.

The coalition’s limited plans for asylum seekers was

highlighted by Phil Shiner and Daniel Carey, in an article in *The Guardian* [21], in which they make the fundamental point that it is “Yarl’s Wood itself [that] is the moral outrage” and that removing children from detention will do little for their welfare if their parents remain incarcerated:

children on the outside suffer dreadfully too, when they are separated from their parents who continue to be held, often for well over a year at a time. The harm caused by immigration detention owes as much to its indeterminate nature and the conditions in which it is implemented as it does to the youth of its victims. From start to finish, it subjugates welfare concerns to administrative convenience and shatters the fragile lives of those in its path.

They continue:

The same vulnerability that exposes children to such risks is present, too, in the abused and trafficked women, the torture victims and the mentally and physically disabled who are also held against their will as so-called “residents” in immigration detention centres.

Endnotes

1. *c.f. Frances Webber “Border wars and asylum crimes” (Statewatch, UK) 2006*
2. *Stephen Shaw “Report of the inquiry into the disturbance and fire at Yarl’s Wood Removal Centre” (November) 2004.*
See also Harmit Athwal “Yarl’s Wood trial - a miscarriage of justice?” 3.9.03. <http://www.irr.org.uk/2003/september/ha000005.html>
3. *Daily Mirror, 8.12.03.*
Minister for Citizenship and Immigration “Investigation into Allegations of Racism, Abuse and Violence at Yarl’s Wood Removal Centre” <http://www.ppo.gov.uk/docs/special-yarls-wood-abuse-03.pdf>
4. *Ian Herbert “Asylum seeker kills himself so child can stay in Britain” The Independent 17.9.05*
See also “Driven to desperate measures” (IRR) 2006, for a discussion of 221 asylum seekers and migrants who have died in the UK or attempting to reach the UK over a period of 17 years.
<http://www.irr.org.uk/pdf/Driventodesperatemeasures.pdf>
5. *Reported by the National Coalition of Anti-Deportation Campaigns: <http://www.ncadc.org.uk/archives/051-100/newszine60/owers.htm>*
6. *Legal Action for Women “A Bleak House” for Our Times: An investigation into Yarl’s Wood Removal Centre” <http://www.allwomenscount.net/EWC%20LAW/womenagainstlaw.htm>*
7. *The PCS online petition is available at: <http://petitions.number10.gov.uk/racistorgsban/#detail>*
8. *HM Chief Inspector of Prisons “Report on an unannounced short follow-up inspection of Yarl’s Wood Immigration Removal Centre, 4 – 8 February 2008”*
9. *Sir Al-Aynsley Green “The Arrest and Detention of Children Subject to Immigration Control: A report following the Children’s Commissioner for England’s visit to Yarl’s Wood Immigration Removal Centre” (May 2009)*
http://www.11million.org.uk/force_download.php?fp=%2Fclient_assets%2Fcp%2Fpublication%2F361%2Fimmigration_control_full_report.pdf
10. *Every Child Matters: “is a shared programme of change to improve outcomes for all children and young people. It takes forward the Government’s vision of radical reform for children, young people and families.” <http://www.dcsf.gov.uk/everychildmatters/>*
11. *Children’s Society and BID press statement <http://www.biduk.org/news/STATEMENT%20IN%20RESPONSE%20TO%2011%20MILLION%20REPORT%20final.pdf>*
Children’s Society website: <http://www.childrenssociety.org.uk/>
12. *ibid, BID website: <http://www.biduk.org/>*
See also BIDs “Briefing paper on children and immigration detention” February 2009
<http://www.biduk.org/library/BID%20briefing%20on%20children%20and%20immigration%20detention%20Feb%202009.pdf>

13. <http://www.publications.parliament.uk/pa/cm200910/cmselect/cmhaff/73/7304.htm>

14. Royal College of General Practitioners, Royal College of Paediatrics and Child Health, Royal College of Psychiatrists and the UK Faculty of Public Health Intercollegiate Briefing Paper "Significant Harm - the effects of administrative detention on the health of children, young people and their families"

http://www.bbc.co.uk/blogs/thereporters/markeaston/images/intercollegiate_statement_dec09.pdf

15. Sir Al Aynsley Green, *The Arrest and Detention of Children Subject to Immigration Control: Follow-up report (February 2010)*

http://www.11million.org.uk/content/publications/content_393

16. The Royal Colleges of Paediatrics press release 10.12.09.

<http://www.rcpsych.ac.uk/press/pressreleases2009/immigrationdetention.aspx>

17. Cf *The Guardian* 24.2.10.

18. Announcement: *The Wood* review.

<http://www.ukba.homeoffice.gov.uk/sitecontent/newsarticles/2010/may/upd-ate-on-child-detention>

The terms of reference for the review can be viewed at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/26-end-child-detention/terms-of-reference.pdf?view=Binary>

19. Cf *The Independent* 27.7.10

20. Phil Shiner and Daniel Carey "Yarl's Wood itself is the moral outrage" *The Guardian* 23.7.10.

UK: "Speculative invoicing" schemes target internet file-sharers and individuals accused of minor retail crime

by Max Rowlands

Law firms are threatening innocent people with civil court action unless they make large compensatory payments for their alleged wrong-doings. Scared, intimidated and unsure of the law, some are choosing to pay up.

A December 2009 report by the Citizens Advice Bureau (CAB), titled *Unreasonable demands?*, details the growing use of civil recovery procedures against members of the public.[1] Individuals who have been accused of minor shop-lifting and employee theft are increasingly being sent intimidating letters demanding large sums of money to cover the administrative and security costs their actions have supposedly incurred with the threat of civil court action should they refuse to pay.

Similarly, copyright laws designed to allow creative artists to protect their work, are being used far beyond this remit to extort money from internet file-sharers. Dedicated "anti-piracy" companies are leasing the distribution rights of copyrighted material and threatening anyone they believe to have downloaded it with legal action unless they pay a large compensatory fee. The vast scale of the operation and the flawed methods employed to identify illegal downloaders has resulted in large numbers of innocent people being unjustly targeted.

In reality, the legal footing on which these lucrative and growing industries operate is so dubious that their practitioners have no intention of taking people to court. Rather they rely on the threat of legal action and the escalating costs it would incur, scaring and shaming vulnerable people into paying. Neither scheme seeks to prevent the behaviour for which it is demanding compensation; in fact both rely on its continuation for future success: the aim is simply to make money. Perhaps most disturbingly, the vast majority of civil recovery cases and all illegal downloading cases undermine the legal tenet of the presumption of innocence by demanding compensation for an alleged offence in the absence of a criminal conviction.

Civil Recovery

Civil recovery is a civil law remedy through which individuals who believe they have suffered loss or damages as a consequence of another's wrongful actions can seek monetary compensation. It is based on English "tort" law which concerns civil wrongs and operates separately from criminal law. An individual accused of committing a crime, such as theft, can be charged both by the state for breaching criminal law, and by the individual or company their actions have harmed for a tort under civil law. As with all tort cases, civil recovery claims are heard in a civil court where judgments are made "on the balance of

probabilities" rather than the criminal standard of "beyond reasonable doubt."

Businesses have utilised civil recovery to obtain compensation from individuals that have caused them to suffer financial loss, for example shoplifters and dishonest employees. They can seek to recover not only the value of the items that have been stolen or damaged, but the administrative, security and surveillance costs that have been incurred. Individuals accused of minor retail offences are increasingly being targeted in this way. The majority of cases reported to CAB involve petty isolated incidents of alleged shoplifting and employee theft where the individual has no previous history of criminal activity and the value of the goods or money allegedly stolen amounts to no more than a few pounds. Sometimes the police were alerted and the individual was arrested or given a fixed penalty notice, but very rarely was there a subsequent criminal prosecution. In many cases the police were not called and it is debatable whether the individual showed any criminal intent.

In virtually all of these cases the individual concerned believed the matter to be concluded, but within a few months had received a threatening letter requesting payment for administrative and security costs. Most of these letters are sent by Retail Loss Prevention (RLP), a firm of "dedicated civil litigators" who act on behalf of large UK retailers such as Boots, Tesco and Waitrose, and are involved in eight out of every ten cases reported to CA. The remaining cases involve the supermarket chain Asda which pursues its civil recovery claims through the law firm Drydens Lawyers.

The CAB report provides numerous case studies of individuals who have been contacted by RLP demanding compensation for "the loss and damage caused by your wrongful actions.

Emma, aged 18, was dismissed from her full-time job with Boots in October 2007, for the alleged offence of fraudulently putting £5.08 worth of points on her Boots loyalty card; she subsequently received a letter from Retail Loss Prevention demanding £578.88, broken down as: £5.08 for the value of "the goods or cash stolen", £235.00 for "staff and management time", £138.80 for "administration costs", and £200.00 for "apportioned security and surveillance costs".[2]

Kath, aged 17, resigned from her part-time job with the now defunct Woolworths in April 2008, after being accused – falsely, she contends – of the attempted theft of a children’s nursery rhyme CD worth £2.00 by “conceal[ing] the said item in your locker”. Kath contends that she intended to pay for the CD at the end of her shift, and had indicated this to several colleagues. The police were not called, and the CD was recovered intact, but a few weeks later Kath received a letter from Retail Loss Prevention demanding £187.50, including ‘nil’ for the value of “the goods or cash stolen” and £112.50 for “staff and management time”. [3]

Alison, a 23-year-old mother of two young children, was shopping in Boots in July 2009 when (she contends) her two-year-old child took a drink from a shelf and opened it. Alison was then detained by store security staff, who refused her offer to pay for the drink, but the police were not called and Alison was allowed to leave. Two weeks later, Alison received a letter from Retail Loss Prevention, demanding £87.50, broken down as ‘nil’ for “the value of the goods or cash stolen”, £52.50 for “staff and management time”, £15.75 for “administration costs”, and £19.25 for “apportioned security and surveillance costs”. [4]

RLP typically inundates people with claims letters in an attempt to intimidate and scare them into paying up. They threaten an individual’s prospects for future employment; a particularly effective method of extorting payment when you consider that over half the cases handled by CAB involve those under the age of 25. One in six was under the age of 17 when they received a letter from RLP. Many of the letters seen by CAB warn the recipient that “the personal information we hold [on you]” will “now be held on a national database of incidents of dishonesty” and “may be used in the prevention of crime and detection of offenders including verifying details on financial and employment application forms.” Other claims letters have said that “this information is available to companies with a legitimate interest to screen an individual’s integrity in relation to employment decisions.” [5] Until June 2009, RLP claimed on their website to have “the largest database of dishonest people, outside of the Police Force.” Despite RLP’s claims to the contrary, the Office of the Information Commissioner told CAB that at no time has it approved this scheme.

Individuals are also told that refusal to pay will lead to the commencement of county court proceedings against them. This, RLP warns, will inevitably incur further costs and “where Judgment is obtained against you, it will be for the principle sum together with Court fees, Solicitors costs and interest at the rate of 8% per annum which accrues on a daily basis.” It will also “affect, adversely, your ability to obtain credit in the future. Bankruptcy proceedings may also be instigated.” [6]

However, there is no evidence to suggest that either RLP or Drydens Lawyers is capable of obtaining favourable county court judgments in small-scale, isolated cases where there has been no criminal conviction. CAB states that RLP has “repeatedly declined to give details of (or full citations for) any of the cases it claims to have successfully litigated on behalf of its clients.” [7] On its website RLP promotes three successful litigations but they all followed a criminal trial and conviction for repeated offences – circumstances that are entirely different to those of the majority of people they threaten with legal action. CAB concludes that:

“Both Retail Loss Prevention and Drydens Lawyers have failed to provide clear evidence that the civil courts have routinely, consistently and explicitly supported – at contested trials – the recoverability of the sort of sums they demand in cases involving a relatively minor, low-value and one-off offence for which there has been no criminal conviction.” [8]

As a result, if a person challenges or simply ignores their threatening letters, RLP tends to eventually withdraw the claim or ceases contact. In one case cited in the CAB report an individual was sent menacing letters for over a year by RLP and two debt collection agencies acting on their behalf without any legal action being taken. CAB argues that the “prospect of having its ‘claim’ robustly challenged in court (should any court proceedings be issued)...leads Retail Loss Prevention to drop some ‘claims’.” [9] Despite vociferous threats to the contrary, RLP appears to be extremely reluctant to make claims in the county court.

The threat of legal recourse is therefore little more than a scare-tactic designed to illicit fear and anxiety. Civil recovery, as practiced by RLP and Drydens Lawyers, relies almost entirely on shaming and scaring people into complying. Ignorant of the law, many pay the inflated sums demanded of them because they believe they have no realistic alternative but to do so. Those most susceptible are the young and vulnerable members of society - the CAB report has numerous examples of individuals with physical and mental health problems being targeted. In cases where people offer to pay a reduced amount RLP usually accepts the offer, presumably happy to take what it can.

In this context civil recovery is less about recovering damages than a form of fund raising which provides big businesses with an additional stream of revenue. It resembles little more than a fishing expedition whereby letters are indiscriminately sent to as many people as possible. CAB says that over 600,000 demands have been issued over the past ten years and warns that the UK civil recovery industry is growing. Two new UK firms, Civil Recovery Solutions and Civil Recovery Limited have commenced operations within the last year, and the Florida-based law firm Palmer, Reifler & Associates opened a London office in 2009 and utilised its expertise in US civil recovery law on behalf of the clothes retailer H&M. Certainly RLP sees scope for further growth. In September 2009 the front page of their website read:

*Companies are at ever growing risk to losses due to changes within the economic and social environment within the UK. There is a higher volume of crime at all levels. High unemployment and decreased desire to work increases risk. **There is much greater influx of people coming to Britain from a wide variety of backgrounds with different needs and requirements.** Growing debt levels, gambling and those aspiring to higher lifestyles beyond their means are increasing dramatically the number of employees stealing from their employers. [The bolded sentence has since been removed from the website]*

Some retailers, such as Waitrose and Asda, have justified the use of civil recovery on the basis that it provides an effective deterrent, but CAB argues that “the ends of deterring crime or recovering its cost do not justify any means” and that parliament has not debated, let alone approved, the use of civil recovery laws in this way. [10] Further, CAB believes that RLP and Drydens Lawyers’ continued practice of threatening individuals with financial sanctions in the county courts, despite the fact that they are incapable of obtaining a judgment in their favour, constitutes “deceitful”, “unfair” and “improper” business practice, as defined by the Office of Fair Trading’s Debt Collection Guidance: Final Guidance on Unfair Business Practices.” The CAB report urges the Ministry of Justice to undertake an urgent review of civil recovery laws and publish public guidance, but to date the government has proven to be unresponsive to this issue.

Internet file-sharing

A lucrative industry has also grown up around obtaining money from internet file-sharers. “Anti-piracy” companies act as

middle-men by leasing the ownership of copyrighted material, often hardcore pornography, with the sole intention of tracking down and soliciting money from those they believe to have unlawfully downloaded it. Their dubious business practices include setting up “honey traps” for file-sharers by themselves making copyrighted material available for download via peer-to-peer file-sharing programmes. They then record the Internet Protocol (IP) address of incoming connections, determine the personal details of its owner and send this person a “pre-settlement” letter informing them of their wrong doing, requesting monetary compensation and threatening legal action if they do not comply. A small percentage of whatever money is elicited from those who choose to pay is returned to the original copyright holder, with the law firm and “anti-piracy” company keeping the bulk share.

The three largest companies, DigiProtect, DigiRights Solutions and Logistep are all based in Germany but operate in the UK using the small law firm ACS:Law which claims to “specialise in assisting intellectual property rights holders exploit and enforce their rights globally.” In practice this means using a Norwich Pharmacal order in the High Court to force internet service providers (ISPs) to give them the names and addresses tied to any IP address their clients believe to have downloaded copyrighted material (a practice that would not be possible in most EU countries).[11] They then send these people long-winded legalistic letters, predicated on the Copyright, Designs and Patents Act 1998, informing them that they can avoid action being taken against them in the civil courts by paying a compensatory amount of around £500. While dedicated “anti-piracy” companies are ACS:Law’s main clients, the firm also markets its “anti-piracy” scheme directly to all manner of computer game, music and film producers, encouraging them to sign over the distribution rights to their merchandise.

This scheme was originally pioneered in the UK in 2007 by the law firm Davenport Lyons. However, in the face of sustained negative media publicity and complaints from consumer association Which?, it abandoned the practice fearful of permanent damage being done to the firm’s reputation. In December 2008, the workings of the scheme were featured in an episode of the BBC television programme Watchdog. It revealed that they sought £600 from a mother-of-two accused of downloading a computer game and demanded similar compensation for a married couple in their 70s for allegedly downloading gay pornography. Both parties strongly denied any wrongdoing.[12]

In early 2009 ACS:Law seamlessly took over the practice, and it quickly became clear that the two firms are closely linked. Some members of ACS:Law staff transferred over from Davenport Lyons, they share the same client list and use the same legal documents and templates. Similarly to Retail Loss Protection, both firms have exaggerated their ability to secure favourable judgments in court. Davenport Lyons frequently used a default judgment (an uncontested case where the defendant failed to appear in court) to claim that they had the law on their side.[13] In March 2010, two of their lawyers were referred to the Solicitors Disciplinary Tribunal by the Solicitors Regulation Authority. In August 2010, ACS:Law’s owner, Andrew Crossley, suffered the same fate for the third time in his career.[14]

ACS:Law conducts speculative fishing expeditions on a vast scale. In one instance, in November 2009, the firm was able to obtain the personal details of around 30,000 ISP account holders.[15] The magnitude of the scheme makes it all the more alarming that the detection methods used to identify copyright infringement have been criticised as inherently unreliable. There are various ways in which IP addresses can be spoofed, and the common use of wireless technology means that access to internet connections is often not secure. In August 2010, a study found

that roughly a third of London households have “wifi networks that can be hacked with ease.”[16]

However, an account holder is not legally responsible for all internet activity connected to their IP address. Crucially, they are only responsible for copyright infringements made using their internet connection if they carried out the infringement themselves or authorised someone else to do so. If they did neither of these things they can simply inform whoever sent them the threatening letter that they have no case to answer.

ACS:Law is clearly aware that it is operating on sketchy legal ground. Accused of merely conducting “speculative invoicing” in a radio interview in September 2009, Andrew Crossley protested that “all we’re doing is putting these people on notice that their IP address is being utilised and we offer a compromise, they’re under no obligation to pay it but if they ignore us we will be taking further action.”[17] The tone of the letters they send is very different. A typical example reads:

Based on the evidence supplied to us, your internet connection has been used to make the work available on P2P network(s) in infringement of our client’s copyright...Our client’s evidence shows you are responsible for committing one or more of these infringements, either directly or by your authorising (inadvertently or otherwise) third parties to do the same. This gives us grounds to bring a civil claim against you and our client holds you responsible for committing these infringements, subject to any submissions you may make.[18]

The letter goes on to warn of the dire financial consequences non-compliance could bring:

Should it be necessary to bring a claim against you for copyright infringement, the legal costs of those proceedings are likely to be substantial. You may know that in civil proceedings in this country, the loser generally not only has to bear its own costs but also the costs of the winning party. This means that should you lose any action our client takes (against you) you will be liable for our client’s costs and vice versa. Costs in an action such as this can amount to several thousand pounds.

And yet in the same interview, Crossley admitted that his company had never taken anyone to court. A year later this is still the case: ACS:Law has never allowed the strength of its evidence to be put to the test. This may partly be because their methods of obtaining IP addresses do not comply with the Data Protection Act 1998. In this context Lord Lucas has argued that threatening individuals with escalating costs is disingenuous and amounts to “straightforward legal blackmail.”[19] It is worth emphasising that at no point have any of these people been charged with a criminal offence. Like Retail Loss Prevention, ACS:Law’s tactic is to shame them into paying. A number of their clients act on behalf of pornography distributors because their copyright claims are likely to be particularly embarrassing. According to Michael Coyle of Lawdit solicitors, which represents over 100 people who have been written to by ACS:Law, “Because it is porn, the person who’s being accused won’t want to go to court and is more likely to pay up to make the matter go away even if they are completely innocent.”[20] He described the practice as a “licence to print money, all you have to do is hold your nerve, beat the stick and most people do pay.”[21]

Since they have no intention of taking people to court ACS:Law also has little incentive to ensure that their detection methods are accurate. On the contrary, the more letters they send the greater the chance of making money. ACS:Law cannot determine the identity of a file-sharer by IP address alone, but similarly nor can the account holder be sure that a friend or family member was not responsible for the offence. In these murky circumstances it is inevitable that innocent people will pay up in an unwitting attempt to protect the actions of others.

In November 2009, leaked documents of correspondence between Davenport Lyons and DigiProtect showed how the two companies ranked people out of ten on the basis of how likely they were to pay up and then targeted them accordingly.[22] An individual's financial resources, legal knowledge, and the potential for negative publicity were all carefully considered before a decision was made over whether to pursue the claim. DigiProtect has even had debt collection agencies write threatening letters on their behalf despite the fact that there is no debt involved if the person has not agreed to pay compensation.[23]

Incredibly, ACS:Law responds to those who refute allegations of file-sharing by sending them a questionnaire which essentially asks them to help build a case against themselves or incriminate others. The recipient is asked to confirm that they are the owner of the internet connection; state whether their wireless connection is secure; state whether they use file-sharing software and why; state who else has access to the internet connection and whether they would be willing to submit their computer(s) for forensic analysis. *Which?*'s head of legal affairs, Deborah Prince, branded the practice "outrageous" and argued that it undermines the legal tenet of the presumption of innocence.

ACS Law should have all the evidence it needs before making these allegations. If it doesn't, then it shouldn't be asking unrepresented consumers to provide that evidence... This is just another variation of what we believe is bullying behaviour by ACS Law, who say that by not completing the questionnaire it has no option but to consider people guilty of illegal file sharing and pursue the case in court. Declining to fill in a form does not provide evidence of guilt.[24]

The key point is that far from seeking to stamp out illicit file-sharing, some copyright holders are now embracing the practice as a highly lucrative revenue stream. Indeed, it could be argued that by allowing companies such as DigiProtect to deliberately make their products available for illegal download they are actively encouraging copyright infringement. File-sharing is the very lifeblood of the scheme: the more people who do it, the bigger the profits.

DigiRights Solutions claims that in Germany roughly 25% of people to whom they send a letter pay an average fee of around €450. They keep 80% of the money and return 20% to the copyright holder meaning that every letter they send stands to make them €90. The copyright holder stands to receive roughly €22.50 for every letter sent which is often substantially more than they make through legal sales of their product. A record label can make almost 40 times as much through an illegal download of a song than when someone buys it online legitimately.[25]

On 24 September 2010, ACS:Law accidentally published its entire email archive online, revealing that the company has made just over £636,000 in under two years.[26] The leak also made available the personal details of over 10,000 people including the credit card records of those who paid up. The UK's Information Commissioner has said it will investigate the leak and Privacy International is planning to take legal action. Its director, Simon Davies, said this is a rare example of a case in which "almost every aspect of the Data Protection Act has been breached." The head of the organisation's ethical networks project, Alexander Hanff, warned that "this data breach is likely to result in significant harm to tens of thousands of people in the form of fraud, identity theft and severe emotional distress." [27] The company faces a fine of up to £500,000.[28]

A leaked email also revealed that ACS:Law specifically asks people to pay £495 to avoid breaking the psychological barrier of £500. DigiProtect, whose motto is "turn piracy into profit", extracts money in a similarly calculated way. In December 2008, the company's account manager, Thomas Hein, explained how

the company operates in Germany.

We have to be careful about the amount of damages we ask for...we try to find a figure that covers our costs and pays money to our licensors, which is usually around 500 Euro (\$700). Other firms are going for huge amounts of money, and the judges don't like it. If the judges feel you're being greedy, they won't rule in your favour.[29]

The question of what constitutes a fair or proportionate amount to ask for is irrelevant. What the file-sharing has actually cost the copyright holder also appears to be a non-factor. Their only consideration is determining the optimal amount to ask for that will make everyone concerned the most money. As Hein says:

No one working for DigiProtect has a fixed salary. If we make money, everybody makes money. If we don't, nobody does. This means the lawyers, sales people and customers. It's all about how much money can be recouped and then sharing it.

Unsurprisingly the industry is growing. Tilly, Bailey and Irvine solicitors began working on behalf of pornography copyright holders in early 2010 but by April had stopped sending claims letters because they were "concerned that the adverse publicity could affect other areas of our practice." [30] In July 2010, it emerged that the Gallant Macmillan solicitors has sent threatening letters on behalf of the "Ministry of Sound" demanding compensation of around £350 per copyright breach.[31]

As more law firms become involved in the practice, criticism increasingly mounts. In January 2010, in a House of Lords debate, Lord Clement-Jones warned that the targeting of file-sharers is becoming a "big business" that "does nothing to protect the proper and legitimate rights of copyright owners in the UK." [32] Further, "this kind of bullying that never results in an actual court action which can be tested is the worst kind of harassment, and this is only too common." [33] In March 2010, he branded the activities of ACS:Law and Logistep "an embarrassment to the rest of the creative rights industry." [34] Lord Lucas was similarly damning of a practice which "produces a great deal of distress and indignation among many thousands of our citizens and which ought not to be allowed to continue." [35] He added that "the reason this particular scam works is because of the impossibility of producing proof against this allegation."

The Ministry of Justice expressed similar concern in a letter sent by the then Parliamentary Under Secretary of State, Bridget Prentice, to Lord Young.

The Ministry of Justice recognises the distress that has resulted from the conduct of ACS Law and shares the concern expressed by the Lords in this matter. It may be helpful to say to recipients of a letter from ACS Law who are satisfied that they have no liability whatsoever in respect of the issues raised, that it is open to them to inform ACS Law that they are not liable and do not intend to reply to any further correspondence, save to defend a claim should one be brought.[36]

The BPI, which represents the UK music industry, stated: "Our view is that legal action is best reserved for the most persistent or serious offenders - rather than widely used as a first response." [37] The Mobile phone company O2 has condemned "attempts by rights holders and their lawyers to bully or threaten our customers about file sharing." [38] Talk Talk has gone further and refused to hand over the personal details of its customers. Not for the first time ACS:Law elected to avoid a legal confrontation by dropping the ISP Tiscali - which Talk Talk owns - from its recent High Court orders. This perhaps speaks volumes for the quality of the evidence ACS:Law holds against Tiscali's subscribers.[39]

Footnotes

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4 *Ibid.*, p. 4-5

5 *Ibid.*, p. 6

6 <http://www.lossprevention.co.uk/advice/advicepage.aspx?page=3>

7 *Unreasonable Demands?* p. 11

8 *Ibid.*, p. 14

9 *Ibid.*, p. 16

10 *Ibid.*, p. 18

11 A quick guide to Norwich Pharmacal orders can be found on the Practical Law Company website: <http://ld.practicallaw.com/0-211-3137>

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Germany: "I don't want to be forced to lie"

Interview with privacy activist Padeluun

On the German government's plan to implement the controversial population census in 2011, and the campaign against it (see <http://www.zensus11.de>).

A platform of diverse data protection and privacy organisations is planning to put a stop to the 2011 population census with a legal challenge at the Federal Constitutional Court. Privacy activist and artist Padeluun is part of the campaign against "Census 2011", the official name of the government's planned population census. He is chair of the data protection organisation *Foebud* (Verein zur Förderung des öffentlichen bewegten und unbewegten Datenverkehrs e. V.), part of the German Working Group against Data Retention and a jury member of the German Big Brother Awards.

In the 1980s, there were hundreds of civil society initiatives against the census in Germany. The Green Party and the former youth wing of the liberal FDP (*Freie Demokratische Partei*), trade unions, parts of the church and entire cities protested against it at the time. Are protests against the Census 2011 even remotely comparable to those of the 1980s?

That is difficult to determine because protests against the current census are embedded in a broader movement promoting

data protection, which has already mobilised against data retention plans. There are not thousands of people whose only issue is the census because the protests are organised by people who are aware of other measures that affect their privacy. They have been joined by an older generation who protested against the population census of the 1980s.

Given the existence of Google and Facebook, or of employers who monitor their employees and question them about private affairs, are there many people who believe that the census will make no difference?

Some people merely shrug their shoulders about the census, but there are also many who see it as a risk, that these numerous little threats to privacy form a bigger picture. The plan for this census is not only to collect data, but rather to merge it with existing data, for example, residency registers and information from the Hartz IV benefits system. This implies the creation of new databanks - for instance on housing - without our knowledge, which makes the whole plan more sinister. Every data collection attempt that can be averted is in itself a success.

In 1983 the census was successfully challenged on constitutional grounds, with the argument that the collected data would not be sufficiently anonymised. The legal challenge you are lodging with Federal Constitutional Court makes the same argument.

Yes, then as now the same mistakes are made. Then it was possible to show that the collected data could be traced back to individuals. Now, the merging of databases leads to the generation of numbers that allow individuals linked to a particular data entry to be identified.

Is it not surprising that the government is risking another failure at the Federal Constitutional Court? Why does the government repeatedly risk legal defeat before the Court? Can you explain this?

When the current population census plans were passed a year ago, the government had not realised that times were changing and thought it still had free reign. The general election showed that it could not do what it wanted because people reacted by turning to "strange" parties such as the pirate party, and because there are intelligent people who fight back against infringements. The example of internet bans, for example, showed that people experience a "well-intended census" nevertheless as a census and protest against it. The political parties are slowly realising that people have woken up to the issue and do not want to share their private data - neither with the state nor with industry. People simply do not want those who have power or money at their disposal to also have power over their private data.

The 2011 census foresees that property owners have to provide details about their property as well as their tenants. Does that mean that my landlord has to provide details about the fact that I rent one or more flats? If his/her information does not match with the information I gave at the local registration authority, what happens then?

We cannot yet say what will happen in those cases, but some regional states could decide to impose fines - there is an attempt to establish a culture of "honest reporting" at the administrative level. The question remains though whether it is possible to enforce such a thing. If people make random statements to the authorities it is possible they will be caught and have to pay fines, most people, however, will escape detection. No one is looking to generate mass legal procedures. We have to realise that such a census - and we should talk about data collection here because people are not simply counted but very personal and diverse data is collected - does not result in any kind of truth. It just leads to a heap of numbers that are analysed with a formula, the results of which are consequently used to justify decisions. The decisions themselves, however, are not guided by sound empirical data.

In addition to data comparison, the questionnaires are also intended to collect intelligence on population percentages. It is possible to refuse to answer these questions or resort to other forms of sabotage. In the 1980s such actions were unlawful, is this the case with the current census also?

It is expected that almost three million people will complete the census. Those who do not will be threatened with fines. Of course, you can fill in any kind of information, but I find this the most uncomfortable option. I do not want to lie. I also do not want to be forced to lie. I would rather say "I won't do it, so sue me", and then hope that there will not be any significant consequences. I lived in Bielefeld and in the 1980s, and people who boycotted the census there were simply ignored, because the authorities were afraid that it would be revealed that Bielefeld had less than 300,000 inhabitants. They somehow supplemented the missing data in the population registers. Bielefeld wanted to remain classified as a major city and continue receiving federal subsidies. The conclusion is: such a census remains a farce. This is why one should not take it too seriously.

In your opinion, what are the most problematic questions

in the census questionnaire?

Without a doubt, the questions concerning religious affiliation. I find it unacceptable that, in a country such as Germany, it is once again possible to pose such a question. People do not have to answer this question, but who knows about this right? In a society in which we have far-right parties in regional parliaments, these are surely not the kind of lists we want to have. There are also questions about migration history. These are issues that simply should not be recorded in databases. I would like to mention Denmark and Norway at this point as historical examples - both countries were invaded by the Nazis. In Norway, the Nazis found lists originally created for reasons related to radio broadcasting. Denmark did not have such lists. Around 80 percent of Jews residing in Norway were deported and most of them killed in concentration camps, whilst in Denmark, which did not have the lists, the figure was around 2 percent. They simply did not have registers and the result was that the Nazis were unable to access and use them to identify people and arrest them. This example clearly shows why we have to stop the census. Of course, you could argue: 'But we live in a democracy, this would not happen here'. My reply would be: when collecting data we have to take into account that one day, people with sinister plans and motives could have access to these data. If politicians then say: 'We have to make sure that our country remains a free country', I appreciate the idea but also think it's a little naive. If I look at the movement towards the far-right in Italy or the Netherlands I start getting worried, and I would have to say: No, we should refrain from collecting data like this altogether.

Proponents of the population census would probably argue that the state has to know the needs of its population in order to meet them, for example, on integration policy

What do we gain by the state recording the percentage of religious affiliations of the population in a particular region, when it is unwilling to provide the necessary resources to solve integration issues in those regions? Such problems are only solved with the participation of all those affected, not by reducing people to statistics.

According to its webpage, the campaign against the population census 2011 wants to propose "data protection friendly solutions". What would be the preconditions for such a "data protection friendly solution"?

Personally, I have not thought about this question, because I would simply say: Stop the silly counting! But there is not a consensus in the campaign. With alliances such as ours there are always people who shy away from maximum demands. Many assume that we need some data. And in all honesty, that is probably true to a certain extent - if you do not know anything it is impossible to intervene. But we say on our website: any form of state action has to take as its starting point the maximum level of data austerity (the principle that administrative data collected for one purpose should not be linked to data collected for another purpose should not be abolished). The obligation to disclose intimate data, the refusal of which is punishable by law, recalls a dictatorship rather than a democracy.

Should the population census also be rejected on the grounds that states are generally less interested in meeting the needs of those they are collecting data on, then in making them adapt to the needs of the state?

When people ask me why I reject data collection, I always reply that it is not a sign of someone being interested in me, but rather a sign that people are not interested in me as a person but still want me to function, to serve their interests. As a rule that is not in my interest.

This interview appeared in the weekly newspaper Jungle World (No. 26) on 1.7.10 and was conducted by Daniel Steinmaier. It is available at <http://jungle-world.com/artikel/2010/26>.

France: Collective expulsions of Roma people undermines EU's founding principles

by Yasha Maccanico

Assurances made by French government ministers to the European Commission that the expulsion of Roma people is being conducted on a case-by-case basis have been contradicted by leaked interior ministry circulars which establish a set time frame for the eviction of 300 "illegal" camps "among which Roma ones are a priority." EU Justice Commissioner Viviane Reding branded France's actions a "disgrace" and called on the European Commission to initiate an infringement action.

Introduction: Sarkozy announces tough stance against Roma people and "new" French

President Nicolas Sarkozy reacted to clashes in Saint Agnain (Loire-et-Cher department) in central France on 18 July 2010 by calling a meeting about the "problems posed by some members of the Roma and Traveller communities" to announce measures to "evict illegal camps" and expel foreigners in them, primarily to Bulgaria and Romania. Violence by members of the Roma community included an attack on a *gendarmerie* station and the burning of cars following an incident on the night of 16/17 July in which a 22-year-old Romanian Roma, Luigi Duquet, was shot dead by *gendarmes* after failing to stop at a checkpoint. A day earlier, there had been violent incidents during which shots were fired and cars burned in disturbances in the La Villeneuve neighbourhood in Grenoble after Karim Boudouda, who had stolen 20,000 euros in an armed casino robbery, was shot dead by police in a shoot-out while he and an accomplice were being chased. Sarkozy's reaction was to warn second-generation immigrants who had acquired French nationality that it would be revoked if they committed "serious offences", in particular violent acts against police officers or any representatives of public authority.

Following the meeting between Sarkozy, the prime minister and ministers, including Brice Hortefeux of the interior ministry and immigration minister Eric Besson on 28 July, a statement was published which included Sarkozy's view that the situation of "lawlessness that characterises the Roma populations that have come from eastern Europe" is "inadmissible". The existence of 200 "illegal camps" was linked to "illegal activities, undignified living conditions and the exploitation of minors for begging, prostitution and crime". The statement called for their eviction over a three month period, whenever the law allows it, and envisaged legal reform to make evictions more effective. It suggested that eastern Europeans (who are EU nationals) in an irregular situation be removed from France, adding that the immigration law reform that is underway will enable their expulsion for public order reasons "by the end of the year". Ratification of an agreement to return unaccompanied Romanian minors to their home country is pending before the French parliament, and "intense cooperation" is underway to ensure that those expelled have the best possible chance of being reintegrated when they arrive in Romania. There will be "around 20 Romanian and Bulgarian police officers" posted in Paris, and an equivalent number of French officers are to be deployed in Romania and Bulgaria to counter trafficking. The statement also claims that France will take part in initiatives to improve the situation of Roma populations in their home countries. Repatriations would be enacted with payment to aid return and resettlement, and returnees' data would be entered in the OSCAR database (*Outil de statistique et de contrôle de l'aide au retour*, Tool for statistics and control of assisted returns) to detect fraudulent requests such as repeat applications for return and resettlement aid payments by the same people using different personal details. Hortefeux announced that "in three months, half

of the illegal camps will be dismantled...that is, around 300".

Large-scale evictions followed and on 30 August, official figures were released indicating that 128 illegal settlements had been closed down and 979 Bulgarian and Romanian citizens had been repatriated since 28 July, 151 of them forcibly and 828 through so-called "voluntary" returns. The fact that both kinds of removals took place at the same time suggests that it was a case of people being returned by one way or the other.

Reactions from EU institutions and civil society

On 18 August 2010 the European Commission expressed concern over the announced expulsion of 700 Roma, reminding France of its obligation to respect EU norms on freedom of movement and residence for EU nationals, and requested further information. On 1 September, Commissioners Reding (Justice, Fundamental Rights and Citizenship), Andor (Employment, Social Affairs and Inclusion) and Malmström (Home Affairs) produced a document emphasising a number of principles and guidelines concerning large-scale repatriations, noting that practices that violated EU rules included:

- *expelling people purely as a result of their being Roma*
- *expelling people without a case-by-case evaluation of their personal situation*
- *enacting collective expulsions*
- *authorities inciting hatred or violence against a specific group defined by criteria including race, nationality or ethnic origin.*

The Commissioners also said that giving the returnees money as resettlement aid was not necessarily sufficient to classify them as "voluntary returns". Moreover, re-entry bans cannot be issued against EU citizens who are removed merely because they no longer fulfil criteria for lawful residence. The notion of them being a "threat for public security" or an excessive burden for the social security system must be based on an individual assessment of their personal circumstances and conduct whereby, for instance, they may be deemed a "threat" if they have committed certain criminal offences and such a classification is not "disproportionate".

On 9 September, the European Parliament adopted a resolution submitted by the Socialists and Democrats (S&D), Alliance of Liberals and Democrats for Europe (ALDE), Greens/European Free Alliance and European United Left/Nordic Green Left (GUE/NGL) groups "on the expulsion of Roma from France". The resolution expressed "deep concern" at measures targeting Roma and Travellers' expulsion in France and other member states, and called for them to be suspended. While it stressed that mass expulsions are forbidden, the resolution also criticised the "inflammatory and openly discriminatory rhetoric that has characterised political debate during the repatriations of Roma" and statements linking minorities and immigration to crime, as they reinforce

stereotypes and racist discourse, contrary to the duties of public authorities. The resolution also stressed that taking the fingerprints of expelled Roma people amounts to discrimination on racial or national grounds and it notes that the so-called Directive on freedom of movement (38/2004/EC) establishes that:

· *restrictions on freedom of movements and expulsion of EU nationals must be exceptions subject to case-by-case assessment, and are practices for which clear limits are imposed;*

· *lack of economic resources per se cannot automatically lead to expulsion, as it can only be imposed on grounds of public policy, security and public health due to personal conduct and not as a result of general considerations of prevention or ethnic or national origin.*

Finally, the Resolution calls on member states to implement the free movement directive and eliminate policies that discriminate against Roma people on the basis of race and ethnicity. It envisages the possibility of the European Commission and European Council opening infringement proceedings against countries that fail to implement provisions in this field that are contained in relevant treaties and Directives.

There was also criticism from civil society organisations including migrant support, anti-racist and human rights groups, as well as those specialising in Roma matters. They called a nationwide demonstration on 5 September (protests were also held in other European countries), accusing Sarkozy and his government of betraying the principle of “freedom, brotherhood and equality” and of enacting “xenophobic” policies. In a response to the French president’s announcement of tough measures to evict illegal camps on 29 July 2010, the European Roma Rights Centre (ERRC) stressed that French town councils had failed to implement the law requiring the creation of an adequate number of sites for Travellers with appropriate services”. It also called “for an end to plans which would lead to gross human rights violations of these marginalised groups”.

Amnesty International (AI) released a public statement in which it argued that “French officials should be working to fight discrimination, rather than making inflammatory statements linking entire communities to alleged criminality”. It noted that municipalities with over 5,000 inhabitants are obliged to set up camps for Travellers and highlighted the fact that in April 2009, France was criticised by the French Equal Opportunities and Anti-Discrimination Commission because only 25% had done so, causing an increase in people living in unauthorised sites, (*Rue 89* website estimates the current figure at around 50%). On 21 July 2010, four Traveller (*gens du voyage*) organisations criticised the “hateful stigmatisation of all Travellers and Roma people by the president” by portraying them as responsible for the government’s problems in the field of security. They added that his “muddling up” of Travellers and Roma people “reinforces a useless and dangerous ethnicisation of the debate”. Moreover, Travellers are generally French nationals, but they are subjected to “exceptional” legislation that has been deemed “discriminatory by [the ICJ in] The Hague”.

In a statement on 31 August 2010, GISTI, IRIS and *Ligue des Droits de l’Homme*, three organisations that had submitted a request to the *Conseil d’Etat* (State Council, the highest administrative court and an advisor to the government) to abrogate the introduction of the OSCAR database, stressed that it had become an extremely urgent matter in view of the expulsion of Roma people and Eric Besson’s announcement on 17 August 2010 that it would begin operating “in the next few weeks”. The organisations’ criticism of the measure, which was approved by decree on 26 October 2009, is that the database will contain the biometric data of people (photographs and ten fingerprints) who are subject to voluntary returns, including

children aged 12 or above, for five years. They deem this to be excessive as it is meant to be a tool to help carry out “assisted returns”. Hence, they call for the *Conseil d’Etat* to either reach a quick decision, or to suspend the introduction of the database until a decision is reached, “because this hurried use of biometrics” is part of a “xenophobic escalation against Roma people” and “constitutes a further tool for the control and stigmatisation of all foreigners” who may resort to so-called “assisted returns”.

In view of Italian calls for expelled EU nationals to be forbidden re-entry, the database could end up serving similar identification functions to the Schengen Information System (SIS) or the EURODAC database for asylum seekers. Moreover, a circular sent to prefects inviting them to enact the policy of camp evictions and returns (see below) states that people removed from France for public order concerns will not be allowed to return for a year, which has aroused suspicions that this may be an ulterior motive for entering their biometric data in the OSCAR database.

France responds, with support from Italy

On 31 August 2010, the French authorities told the European Commission that measures to expel foreigners residing illegally had been adopted in the past (there were 44 such flights in 2009 and the first flight following Sarkozy’s outburst was the 25th to Romania or Bulgaria in 2010), but had been speeded up since July. It should be noted that France is not the only EU state to have carried out such expulsions: Denmark, Germany, and Sweden have done so in the past on a smaller scale, while a similar practice has also been adopted in Italy. The Italian interior minister, Roberto Maroni, supported the French government, and promoted a Rome-Paris axis on this matter (see below). Bulgarian and Romanian nationals will not enjoy the full benefits of accession until January 2012 because France has maintained a transitional regime requiring them to be issued with a work permit before taking up employment.

Eric Besson issued a statement on 27 August 2010 to explain the measures and addressed the matter of their compatibility with EU law in response to charges of discrimination and of undermining the founding principles of the French Republic. Besson expressed the need to “forcefully belie those who tarnish France’s image by accusing it of violating its European and international commitments, as well as its Republican rules and traditions”. He stressed that France only recognises foreigners as nationals of the countries of which they are citizens and that, hence, the treatment that they receive does not take into account their membership of the Roma community. Besson stressed that freedom of movement for EU nationals applies for three months, but it is not without conditions after this period has expired, and it may be curtailed if a person is a “threat to public order” and “if they do not exercise a professional activity and do not have the means not to become a burden” for the social services, or do not have medical insurance.

Hence, Romanian and Bulgarian nationals residing illegally may have removal measures issued against them, for reasons including their being a “threat to public order”, or in breach of employment conditions, as they are obliged to have a residence permit allowing them to work without which a removal order (*arrêt préfectoral de reconduite à la frontière*, APRF). Another form that a removal may take is an order to leave the national territory (*obligation de quitter le territoire national*, OQTN) if they are unemployed, do not have the means to support themselves or lack medical insurance. The minister also denied that France had carried out any “collective expulsions”, but rather they were lawful and based on an individual assessment of each person’s circumstances in relation to laws on residence, both in cases involving forced removal and assisted returns. The flights chartered to carry people back to their countries do not

change this, but are merely a resort to ensure effectiveness and the lowering of costs. Besson stressed that France gives preference to “voluntary” assisted returns over expulsions, the former involving the payment of travel costs, assistance in obtaining the required travel documents, travel costs in their home countries, and access to special procedures when they are needed. Hence, “France remains loyal to its Republican and humanist tradition”, which does not entail “receiving any person who wishes to reside in France, without any limits or unlawfully”.

Besson’s arguments were tailored to counter any charges of discrimination and to fit the “application of the law”, but the problem of Sarkozy’s previous statements and the suspicion of discrimination remained. The Commission’s vice-president, Viviane Reding, said that the institution would monitor developments.

Italy’s reaction is interesting because the country is widely identified as the pioneer of policies in this field, both in terms of the eviction of illegal camps and the expulsion of eastern Europeans, primarily Roma people. At first, Rome mayor Gianni Alemanno said that his administration “opposes expulsions on an ethnic basis”. Interior minister Roberto Maroni was more supportive, “Sarkozy is right, but this is certainly not something new”. He claimed credit for the measures because “Italy has been using assisted voluntary returns for years”. He added that a further step to enable the “expulsion of Community citizens” is required. In Rimini, on 25 August 2010, Maroni stressed that Directive 38/2004 allows EU nationals to reside in other member states for three months, “but under certain conditions”, “rules that apply to me if I go to France, and must apply to those who come to Italy”. He defined them as “a minimum income, adequate housing and not becoming a burden for the host country’s social support system”, adding that “many Roma are Community citizens but do not fulfil these three requirements”.

As a guest of French interior minister Eric Besson on 6 September 2010, Maroni announced that he would ask the European Commission to “envisage measures to expel and repatriate Community citizens, because it is a gap that must be filled”. Interviewed by *Corriere della Sera* newspaper, Maroni noted that Italy had been forced to scrap the measure when former Commissioner for Justice, Freedom and Security, Jacques Barrot, deemed it incompatible with EU law when Italy discussed its “security package” with the Commission. Hence, EU nationals could only be “asked to leave”, but he said he would re-submit the proposal. Rules to turn third country nationals’ irregular status into a criminal offence and their insufficient income or inadequate housing into a “threat to public order” were nonetheless adopted to evade limits to carrying out forced removals introduced by the so-called Returns Directive (115/2008).

Alemanno displayed a shifting attitude over the rejecting of expulsions on an ethnic basis, when he argued that the number of Roma in Rome should be limited to 6,000. He deemed this to be the “threshold of sustainability”, implying the expulsion of 1,000 Roma from the city and the eviction of three or four settlements per week. Evictions have also become commonplace in Milan, where a pact in November 2009 between the *Lega Nord* (LN) and *Popolo della Libertà* (PdL) parties in the town council proposed to limit the Roma population in the city to 1,000 in 2011. The presence of illegal camps has been declared an ongoing “state of emergency” in Rome, Milan and Naples (and the regions of Lazio, Lombardy and Campania) since 21 May 2008. It was extended to Turin and Venice (Piedmont and Veneto) on 28 May 2009. This gave rise to large-scale evictions and expulsions. A second phase involved the setting up of authorised camps, but their provisional regulations have already drawn criticism and were the subject of a lawsuit because of the obligations they imposed upon their residents (see *Statewatch news online*, analysis 87, November 2009).

Eviction instructions surface, Commission responds

In two cases Lille administrative court annulled expulsion orders issued against 11 Roma people who were evicted from a camp in the city’s suburbs between Mons and Villeneuve d’Ascq (four in the first case on 27 August 2010 and a further seven on 31 August). The authorities had alleged a threat to public order, and added unhygienic conditions in the second case, but this was rejected by the court because the illegal occupation of land did not suffice to demonstrate the “existence of a threat to public order”. On 9 September, two immigration lawyers, Clément Norbert and Antoine Berthe, invited three Romanian Roma clients who had been issued APRFs to cross the Belgian border at the Armentières border post and then return to France a few minutes later, in an action to “demonstrate the absurdity of the French government’s policy on Roma people”. They argued that their clients had complied with the order to leave through the French border, thus invalidating it, and could then enter French territory again as citizens of an EU state.

However, it was the publication by *Le Canard Social* of three interior ministry circulars with instructions for police prefects concerning the eviction of illegal camps and the treatment of their residents that caused the French authorities the greatest problems. One of them directly belied reassurances given to the Commission by Besson and the minister for relations with the EU, Pierre Lellouche. The ministers had said that people who were being returned were being dealt with merely as Bulgarian and Romanian citizens who did not fulfil residence requirements, particularly as special rules still applied to them, without considering whether they were Roma or not. However, the circular issued on 5 August 2010 contained detailed instructions and developed the guidelines received by prefects on 24 June:

The President of the Republic set out some precise goals on 28 July, for the eviction of illegal camps; 300 illegal camps or settlements will have to be evicted within three months, among which Roma ones are a priority.

Its tone is striking, and does not require much commentary. Department prefects are held responsible for enacting a “systematic method for dismantling the illegal camps, among which Roma ones are a priority”. The document adds that the legal and operational measures required must be identified without delay for each site. It also claims that operations carried out since 28 July gave rise to a number of removals that were “too limited”. The operation is described as a “strong commitment” by the government to ensure that “the state’s authority is respected”. A “complete personal mobilisation” is “required” of prefects and “all the services, especially against the illegal camps of Roma people”. “In-depth preparation” by the relevant services is required, “in particular the PAF [the border police, *police aux frontières*] and the OFII [French immigration and integration office] for Roma camps”. The instructions order “evictions” and “immediate returns to the border for foreigners in an irregular situation”, and “systematically” initiating judicial procedures and social and tax controls in sites that cannot be immediately evicted. Roma people are explicitly mentioned again with regards to “preventing the establishment of new illegal Roma camps”. Fortnightly summaries are required, detailing:

- the presence of illegal Roma camps as of 21-23 July 2010 [when it seems that a sort of census/mapping exercise must have been carried out], updated with developments and details of planned operations;

- new possible settlements of illegal Roma camps (after 23 July), and what has been done about them;

and the same two categories, explicitly regarding *gens de voyage* (Travellers).

It ends by stating: “In view of the set objectives...in their area

of competence, area prefects will ensure the carrying out of at least one important operation (eviction/dismantling/removal) per week, which will primarily concern Roma people”.

Commissioner Reding reacted angrily on 14 September 2010, “I can only express my deepest regrets that the political assurances given by two French ministers officially mandated to discuss this matter with the European Commission are now openly contradicted by an administrative circular issued by the same government”. She added that “we can no longer have confidence in the assurances given by two ministers at a formal meeting with two Commissioners and with around 15 senior officials at the table from both sides”. She stated that “this is not a minor offence...it is a disgrace”, and “Discrimination on the basis of ethnic origin or race has no place in Europe”. Noting that a new circular was issued that removed references to a specific ethnic group, Reding said that “it is important that not only the words change, but also the behaviour of the French authorities”.

She announced that the Commission was looking into the possibility of initiating an infringement action against France regarding “discriminatory application of the Free Movement Directive” and “lack of transposition of the procedural and substantive guarantees under the Free Movement Directive”. Her most striking comment was that “This is a situation I had thought Europe would not have to witness again after the Second World War”. Reding was accused of over-reacting and Sarkozy deemed the reference to the treatment of Jewish people during the Second World as unacceptable, stating that “Reding should receive the Roma people in Luxembourg”. He remained silent to the more obvious reference - the fate of Roma people which included deportation and slaughter in Auschwitz/Birkenau because they were deemed a threat to society.

The 24 June 2010 circular is interesting because it documents the arsenal of legal and operational measures that have been approved in recent years targeting Travellers and Roma, as well as low-level crime in general. It also makes clear that the problem did not begin with Sarkozy’s statements in July, but rather several aspects of the plan were already underway. The forced eviction of illegal settlements envisaged by law no. 297/2007 may be used for “Travellers” living in vehicles without judicial intervention, although this does not apply to stationary caravans or makeshift dwellings. The intervention of penal judges, who must be “systematically seized” (have the issue brought to their attention for a decision) with such matters, is required for other camps. If the land is public, the request to put an end to occupation without a title for doing so must be presented “urgently”. The *tribunal de grand instance* (TGI) may have the matter brought to their attention for a decision with an expulsion request if the land belongs to a public person, the road authority or a private person. Owners must be informed and encouraged to submit these requests. Prefects are invited to use all the opportunities provided by penal legislation, in association with the courts.

Law no. 239/2003 added article 322-4-1 to the penal code, making illegal settlement a criminal offence that may be punished with a six-month prison sentence and a 3,750 euro fine. The circular notes that this must be applied to all illegal camps, not just those of Travellers, although its use is limited to councils of 5,000 residents who have complied with law no. 614/2000 to provide legal sites for Travellers. The article is “underused” and has two benefits: dissuasive (due to the punishment it provides for) and administrative, (in that once a judge has had the matter brought to their attention it enables the identification of residents and may contribute to the security of removing foreigners who reside in France illegally, particularly if their legal stay is time-tied). Prefects are also called upon to encourage the police and *gendarmerie* services under their authority to verify all of the criminal offences connected with the illegal settlement and to inform prosecutors about them.

In particular, exploiting begging activities (which is

construed as organised crime) may lead to three years’ imprisonment and a 75,000 euro fine; aggravating circumstances include the use of a minor for begging activities (even more so if the person using the minor has responsibility for them); aggressively begging or as part of a group, or using the threat of a dangerous animal, may lead to a six-month prison sentence and a 3,500 euro fine (see *Statewatch* Vol. 12 no 6). The circular stresses that evictions are an opportunity to check the legality of residence. Officers must execute any pending expulsion order against third-country nationals found in the camps residing illegally, or they must issue an order to be brought to the border (APRF). The measures available to remove EU nationals mentioned by Besson in his statement (three-month stay, lack of income or means, employment or medical insurance, representing a threat to security), depend on their stay for over three months being documented and personal conduct, as illegal occupation does not suffice to configure a “threat”. OQTFs (orders to leave the French territory), which may be issued in circumstances including a lack of means not to become a burden for social services even when a person or family has not asked for their services, involve a one month delay before compliance, which “could be used to describe the mechanism for assistance to returns” to the concerned people. The circular identifies the possibility of returning EU nationals during their lawful three-month stay by way of an APRF for being a “threat to public order”, applicable if their conduct “disturbs public order” without it being serious enough to justify an expulsion. It notes that this measure means that they may be refused re-entry for a year.

Le Canard Social asked Loïc Bourgeois, a lawyer who is a specialist in defending Roma people, for comments on the documents. He argued that “It is not a matter of the supposed annoyance that is caused by the Roma which is discussed here, but rather, the fierce will to use all available means for the utilitarian purpose of expelling this community”. He added that there have “rarely” been “such circulars that relentlessly detail all the legal resorts to undermine a population”. In his view, the circular of 5 August marked a shift insofar as “it stigmatises an ethnic group”, whereas “up to that point, this type of interpretative circular targeted a social category, for example the poor through the offence of begging”.

Expulsion of Roma people in the EU undermines founding principles

After restrictions on the free movement of EU citizens were first introduced against football hooligans (a useful category for introducing new measures because their violence is often indefensible), it was extended to violent protestors, a category to which some member states are trying to add so-called “troublemakers”. Then a “security decree” was approved in Italy on 28 December 2007 to enable the expulsion of EU citizens on the basis of a wide interpretation of a person who represents a “threat to public security” (see *Statewatch* Vol 18 no. 1). The measure targeted Romanians, but was drafted to avoid charges of discrimination, so that any foreigners whose income or accommodation was deemed inadequate would be liable for removal.

The measure was abrogated, but the Italian government is now seeking an alliance with France to re-submit the principle to the EU, by calling for changes to be introduced to Directive 38/2004 (on the residence of foreign EU nationals) in other EU countries. The principle of Roma, or the nationals of any EU state, becoming “expellable” if their income or living conditions are deemed inadequate would be an ominous sign of “freedom of movement” (one of the EU’s key principles) being limited to the wealthy. At a time of economic crisis, unemployment and high rents may mean that there are many (including Italians who are living abroad) who fall within this extensive “threat to public

security” category, through no particular fault of their own. The equating of “foreigners” who do not have a work contract or a suitable home with security threats could lead to young people who often seek to start their working life abroad (for a myriad of reasons including lack of opportunities in their home country, the wish to have new experiences or to learn a language that may help them in their professional careers) having this option curtailed unless they get a long-term job.

Sources

“Statement on the latest developments on the Roma situation”, V. Reding, Brussels, 14.9.10.

“European Parliament resolution of 9 September 2010 on the situation of Roma and on freedom of movement in the European Union”, P7_TA-PROV(2010)0312.

“Communiqué faisant suite à la réunion ministérielle de ce jour sur la situation des gens du voyage et des Roms”, 28.7.10.

“The situation of Roma in France and in Europe”, Joint Information Note by Vice-President Viviane Reding, Commissioner László Andor and Commissioner Cecilia Malmström, 1.9.10.

“Provvedimenti di espulsione e di rimpatrio anche per i cittadini comunitari: lo proporrà Maroni alla Commissione europea”, Italian interior ministry newsletter, 6.9.10.

“Gens du voyage et Rom: La dangerosité d’une posture ethnique et répressive”, statement by Association Nationale des Gens du Voyage Catholiques (ANGVC), Union Française des Associations Tsiganes (UFAT), Association Sociale Nationale Internationale Tsiganes (ASNIT) and FNASAT - Gens du voyage, 21.7.10.

“Fichage biométrique des Roms, L’annulation du fichier OSCAR par le Conseil d’État devient urgente”, GISTI, IRIS, LDH, 31.8.10.

“France urged to end stigmatization of Roma and Travellers”, Amnesty International public statement, 26.2.2010, AI Index: EUR 21/005/2010.

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“Expulsions des Roms: une mode d’emploi explicite”, *Le Canard Social*, 9.9.10, including interior ministry and immigration ministry circular to police prefects of 24.6.10, and interior ministry circulars of 5.8 and 9.8.10.

AFP, 18.8, 9.9.10; *Corriere della Sera* 21.8, 4.9, 7.9.10; *Diagonal*, no. 132, 3.9.10; *El País*, 27.8.10; *Le Telegramme*, 17.7, 30.7, 3.9.10; *Libération*, 31.8.10; *Repubblica* 7.9.10; *Rue 89*, 28.7.10.

New material - reviews and sources

Civil liberties

The State of the World’s Human Rights. *Amnesty International Report 2010*, pp. 430. “Reports implicating the UK in grave violations of human rights of people held overseas continued to emerge. Calls for independent investigations into the UK’s role in these violations went unheeded. The government’s attempts to return people to countries known to practise torture on the basis of “diplomatic assurances” (unenforceable promises from the countries where these individuals were to be returned) continued. The European Court of Human Rights found that, by detaining a number of foreign nationals without charge or trial (internment), the UK had violated their human rights. The implementation of measures adopted with the stated aim of countering terrorism led to human rights violations, including unfair judicial proceedings. The executive gained powers to circumvent and undermine the independence of coroners’ inquests. Twenty years after Patrick Finucane’s death, an inquiry into state collusion in his killing had yet to be established.”

Joint study on global practices in relation to secret detention in the context of countering terrorism of the special rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin; the special rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak; the working group on arbitrary detention represented by its vice-chair, Shaheen Sardarali; and the working group on enforced or involuntary disappearances represented by its chair, Jeremy Sarkin. *UN Human Rights Council*, 19.2.10. (A/HRC/13/42), pp. 186. This study highlights the fact that secret detention in connection with counter-terrorism policies remains “a serious problem on a global scale”, through the use of secret detention facilities; the declaration of a state of emergency (which allows prolonged secret detention) or forms of “administrative detention” (which also allows prolonged secret detention). In their conclusions, the experts reiterate that international law clearly prohibits secret detention, which violates a number of human rights and humanitarian law norms that may not be derogated from under any circumstances. They make 11 concrete recommendations that are aimed at curbing the resort to secret detention and the unlawful treatment or punishment of detainees in the context of counter-terrorism. See: <http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A-HRC-13-42.pdf>

Up against the law and winning. Tim Gopsill. *Free Press* no. 174 (January-February) 2010, pp. 4-5. This article discusses the adoption of “successive anti-terror laws, giving police new authority to obstruct and threaten people taking photographs” and the “growth of a corps of photographers who are prepared to challenge all this.” They have an organisation called “I’m a Photographer not a Terrorist” (PHNAT) which grew out of a demonstration at New Scotland Yard in 2009. See: <http://photographernotaterrorist.org/>

Gypsy and Traveller law update – Part 2, Chris Johnson, Dr Angus Murdoch and Marc Willers, *Legal Action*, July 2010, pp.38-40. Part 2 of the Gypsy and Traveller law update highlights the latest developments in enforcement relating to the provision of accommodation for Gypsies and Travellers. Part 2 is to be read in conjunction with Part 1 of the update, published in the June 2010 edition of *Legal Action*, which detailed the latest changes in law and policy relating to possession proceedings, unauthorised encampments and homelessness.

Immigration and asylum

Report on a full announced inspection of Brook House Immigration Removal Centre 15 – 19 March 2010, HM Chief Inspector of Prisons. *Her Majesty’s Inspectorate of Prisons 2010*, pp. 121. The Chief Inspector of Prisons found conditions at the privately-run (G4S) deportation centre at Gatwick airport to be “fundamentally unsafe”, with serious problems of bullying, violence and drugs. “Recalcitrant” prisoners among the 400 male detainees are placed in oppressive, windowless and seatless holding rooms. Although detainees are meant to be held for no more than 72 hours, the average period of detention is three months, with one man having been held for 10 months. See: http://www.justice.gov.uk/inspectorates/hmiprison/docs/Brook_House_2010_rps_.pdf

Improving Conditions for Migrant Workers. *Labour Research* Vol. 99 no. 7 (June) 2010, pp. 17-18. This article observes that immigration was “a hot topic” during the general election campaign, but unfortunately the political parties focussed on the numbers entering the UK rather than the more pressing issues of pay, working conditions and exploitation. It examines how unions are responding to the lack of health and safety protection for many migrant workers. LRD email – info@lrd.org.uk

Recent developments in immigration law – Part 1, Took's Chambers immigration team. *Legal Action*, July 2010, pp.16-20. This series of updates reviews significant developments in immigration case-law concerning issues such as the points-based system, states' failure to protect human trafficking victims, and the deportation and extradition of foreign nationals from Russia and various European member states.

Using immigration law to break our unions. *Labour Research* Vol. 99 No 8 (August) 2010, pp. 9-11. This article examines the "capital's overwhelmingly migrant cleaning workforce on the tube" and how their campaign for a living wage, decent working conditions and the right to strike has been countered by the firms that employ them using "immigration as a tool...to undermine union organisation." Clara Osagiede sums this situation up as follows: "For years and years cleaner's on the London Underground were paid peanuts, but migration and our immigration status was never an issue. It was only after the cleaners started asking for a living wage and decent conditions, and taking strike action to achieve this, that the companies who employed us began using immigration as a tool to divide us and to undermine union organisation."

Too many of whom, and too much of what? What the new population hysteria tells us about the global economic and environmental crisis, and its causes. *Discussion paper* (No One Is Illegal) 10.07.09, pp. 16. This paper considers the "resurgence of population politics" at a time of crisis in the global capitalist system. It argues that this development places the issue of human autonomy firmly and urgently in the spotlight. Available as a free download: <http://www.noii.org.uk/2010/01/13/too-many-of-whom-and-too-much-of-what/>

No place for the innocent, Paul Vallely. *Independent Life*, 12.1.10, pp. 1-5. This feature article examines the plight of the Mansours and their five children, who fled to the UK after a campaign of intimidation in Egypt, only to be snatched from their beds by a dozen burly security guards and locked up at Yarl's Wood Immigration detention centre. As Vallely observes: "...this isn't East Germany under the Stasi – it's 21st century Britain."

Law

Experiments in Torture: evidence of human subject research and experimentation in the "Enhanced" Interrogation Program. *Physicians for Human Rights White Paper* (June) 2010, pp 30. This report examines Bush's "human intelligence collection programs" which redefined practices such as waterboarding, forced nudity, sleep deprivation, temperature extremes, stress positions and prolonged isolation, as "safe, legal and effective" enhanced interrogation techniques. This report concludes: "The use of human beings as research subjects has a long and disturbing history filled with misguided and often wilfully unethical experimentation. Ethical codes and federal regulations have been established to protect human subjects from harm and include clear standards for informed consent of participants in research, an absence of coercion, and a requirement for rigorous scientific procedures. The essence of the ethical and legal protections for human subjects is that the subjects, especially vulnerable populations such as prisoners, must be treated with the dignity befitting human beings and not simply as experimental guinea pigs." See: http://www.soros.org/initiatives/usprograms/focus/security/articles_publications/publications/phr-torture-report-20100607/phr-torture-report-20100607.pdf

Without Suspicion: Stop and Search under the Terrorism Act 2000. Human Rights Watch, 2010, pp. 64. This report examines the use of the stop-and-search power under section 44 of the Terrorism Act 2000. The power is intended to prevent terrorism, but despite almost 450,000 section 44 stops and searches throughout the UK between April 2007 and April 2009, no one was successfully prosecuted for a terrorism offence as a result. Available as a free download: <http://www.hrw.org/en/reports/2010/07/05/without-suspicion-0>

Cutting crime: the case for justice reinvestment. *House of Commons Justice Committee*, 14.1.10 (HC 94-I), pp. 226. This report is in two parts: Chapters 1-5 set out the financial, policy and political context in

which the criminal justice system operates and the problems involved in controlling its expansion. The remainder of the report sets out how these problems might be overcome to transform the criminal justice landscape and create a sustainable and evidence-based response to crime for the future. Available as a free download:

<http://www.parliament.the-stationery-office.com/pa/cm200910/cmselect/cmjust/94/94i.pdf>

Recent developments in housing law, Jan Luba QC and Nic Madge, *Legal Action*, August 2010, pp. 31-36. Of interest in this month's section concerning housing law, is the news on page 32 that £30 m will be cut from the Gypsy and Traveller site grant, which "effectively ends the programme which was designed to refurbish existing official sites".

Military

Mapping US drone and Islamic militant attacks in Pakistan. *BBC News South Asia*, 22.7.10. This article observes that: "Missile attacks by US drones in Pakistan's tribal areas have more than trebled under the Obama administration...More than 700 people have been killed in such attacks under Mr Obama compared with slightly fewer than 200 from under his predecessor, George W. Bush." The report also records 140 attacks by Islamic militants, resulting in 1,700 deaths and that over the same 18 month period "more than 2,500 people died in offensives by the Pakistani army.": <http://www.bbc.co.uk/news/world-south-asia-10648909>

US to activate European missile shield soon, Craig Whitlock. *The Washington Post*, 1.8.10. *The Washington Post* reports that the US military is on the verge of activating a partial missile shield over southern Europe. According to Pentagon officials a deal is near to establish a key ground station for high powered X-band radar, probably in Turkey or Bulgaria. Together with the stationing of Aegis class destroyers and cruisers equipped with Raytheon Standard Missile-3 (SM-3) Block IA interceptors to patrol the Mediterranean the system will make up Phase 1 of the Obama missile defence plan in 2011. In the second phase from roughly 2015, improved interceptors (SM-3 Block IB) will be employed along with an initial land-based SM-3 site in southern Europe (Romania). Phase 3 will be achieved in 2018 with a second land-based site in northern Europe (Poland) and a further updated SM-3 Block II-A. During the November NATO summit in Lisbon the allies will decide whether to make territorial missile defence part of NATO's mission. A "lower layer" of Patriot and other interceptors will than be integrated in the US "upper layer" framework.

The Runaway General, Michael Hastings. *Rolling Stone* No. 1108 / 1109, 8.7.10. This article is based on interviews with General Stanley McChrystal, the commander of NATO's International Security Assistance Force and US Forces-Afghanistan until he was unceremoniously sacked for his comments to Hastings. The piece describes the general's role as the "leading evangelist for counterinsurgency" and his ambition to use the Afghanistan invasion as "a laboratory" for it. Counterinsurgency is defined as "the new gospel of the Pentagon brass, a doctrine that attempts to square the military's preference for high-tech violence with the demands of fighting protracted wars in failed states." However, it has been shown to be militarily ineffective, for instance in the "doomed" US offensive surge at Marjah (Helmand province) and has been broadly criticised by the US ambassador to Afghanistan, Karl W. Eikenberry, who warns that: "We [US military forces and their remaining allies] will become more deeply engaged here with no way to extricate ourselves short of allowing the country to descend again into lawlessness and chaos." <http://www.rollingstone.com/politics/news/17390/119236>

Nation building is a luxury in Afghanistan, John Bolton. *The Times* 17.5.10. Bolton, the former US ambassador to the United Nations and senior fellow at the neo-conservative American Enterprise Institute, explains why nation building in Afghanistan is an unaffordable luxury. He says: "Nato's central challenge is not so much the current Afghan military situation as to avoid losing its will and staying power. As with the global war on terror generally, this war will be protracted, to which Nato must either be steeled, or sooner or later, face inevitable negative consequences." He goes on to criticise the Obama administration for its

“ambivalence” and “deep seated weakness on national security”. He also offers the new UK coalition government advice on how it could improve its position on Afghanistan-Pakistan for the convenience of the United States. In conclusion he states that “Terrorism and nuclear proliferation remain the predominant threats of our time”.

ANSO Quarterly Data Report. The Afghanistan NGO Safety Office Q2, 2010, pp. 10. Among other items the report carries a damning strategic assessment of the US counterinsurgency strategy in Afghanistan. It rejects the military’s assessment that with the surge things must get worse before they get better, instead viewing the increased violence as “consistent with the five year trend of things just getting worse.” Of the Kandahar operation, it says: “As currently articulated Hamkari looks very unlikely to be the ‘breaking point’ of the Taleban. It seems more likely to go the way of Op. Moshtarak, in Helmund, with lots of ballyhoo around the actions of the IMF while the Afghan partners’ discreetly pursue their own, often countervailing agendas.” See: <http://www.afgnso.org/2010Q/ANSO%20Quarterly%20Data%20Report%20%28Q2%202010%29.pdf>

Spain-Israel: Military, Homeland Security and Armament-Based Relations, Affairs and Trends. Alejandro Pozo Marín, Nova, Centre per a la Innovació Social and Centre d’Estudis per a la Pau J. M. Delàs Justícia i Pau, pp. 84. “Israel is the key antagonist in an armed conflict lasting more than sixty years, which is at the heart of global geopolitics and has important implications for regional and global stability. As a consequence of this reality, Israel has become one of the most militarized states in the world which produces the most avant-garde systems of the military and security sectors. The violence experienced in the region has become a source of profit, a business that bases its justification for armed conflict on the financial prosperity it receives as a due consequence. The report looks at relations between Spain and Israel, which include arms imports and exports, business relationships and agreements and practices on military and security, furthermore attempt to answer the question of how Spain contributes to violence in one of the most battered regions of the world.” See: http://noviolencia.nova.cat/sites/default/files/descarregables/Spain_Israel_angl.pdf.

Eamonn McCann: Cameron’s stomach-churning hypocrisy, *Socialist Worker*, 26 June 2010. In this short article McCann discusses the “stomach-churning” hypocrisy behind David Cameron’s apology to the victims of Bloody Sunday; “If David Cameron seriously believed that slaughtering unarmed civilians is wrong, he would cancel the imminent deployment of the Parachute regiment to Afghanistan, where in the past year, around 2,000 civilians have been killed by US and British troops”. The article goes on to discuss the British government’s unwillingness to put together a public inquiry to examine the atrocities committed in May 2004 during operation Danny Boy in Basra where “witness statements describe Iraqis being shot at close range, held down while being strangled to death, heads yanked back and throats cut”.

Policing

Less is more, Gary Mason. *Police Product Review* Issue 36 (February / March) 2010, pp. 39-44. This “product survey” examines “the range and use of mainstream weapons in police forces as an alternative to conventional firearms and how they may develop.” It considers baton and multi-shot baton guns, the chemical options and conducted energy devices. It also includes a brief entry on human rights concerns.

Commissioner's Report: Independent Investigation into the death of Nadeem Khan. *Independent Police Complaints Commission* May 2010, pp. 13. This report presents the Commission’s findings from its investigation into the death of Nadeem “Dean” Khan while in the custody of Lancashire Constabulary. Available as a free download: http://www.ipcc.gov.uk/commissioners_report_nadeem_khan.pdf

German police clean up with new cannon. *Police Product Review* Issue 36 (February / March) 2010, p 5. This short article is on the WaWa 10, a new water cannon being tested by German police forces to replace the earlier model. Built by Austrian company Rosenbauer, this joystick controlled vehicle carries a crew of five, has a 10,000 litre capacity and three video cameras, a voice recorder and an external loud

speaker.

Race and Faith Inquiry Report. *Metropolitan Police Authority*, July 2010, pp. 88. This inquiry began after a senior Asian police officer, Tarique Ghaffur, began employment tribunal proceedings against the Metropolitan police in 2008. The inquiry heard: “sad and disturbing accounts from Black and Minority Ethnic (BME) officers and staff of differential treatment which have led us to conclude that excellence and innovation in some areas sit uncomfortably with the differential experiences of BME officers and staff in others.” It adds “People from a BME background or faith in the MPS feel unfairly treated and marginalised”. The report makes nine recommendations for improvement. See: <http://www.mpa.gov.uk/scrutinies/racefaith/>

Police and Roma and Sinti: good practices in building trust and understanding, *The Organisation for Security and Co-operation in Europe (OSCE)*. SPMU Publication Series Vol. 9 (Vienna) April 2010 (ISBN 978-92-9234-509-9), pp. 143. The preface to this report says: “Roma and Sinti are often targets of racially motivated discrimination and violence. They need to be able to fully rely on the police for protection against – and the full investigation of – hate motivated crimes. At the same time, the police face the challenge of effectively policing Roma and Sinti communities that often view such efforts with suspicion and mistrust, fed by a long history of abuse and discrimination at the hands of various state authorities. See: http://www.osce.org/publications/odhr/2010/04/43671_1452_en.pdf

Ideas to Prevent, Steve Roberts. *Police Review* 9.7.10, pp.22-25. Roberts discusses one element of the government’s Prevent programme, Operation Channel, which claims to “support people at risk of being manipulated into participating in terrorism”. He argues against threatened cuts to the budget of this intrusive and profiling operation.

Toll and Troubles, Sarah Bebbington, *Police Review*, 18 June 2010, pp.22-23 In this piece, Bebbington interviews ex-Royal Ulster Constabulary (RUC) officer Alan Simpson about his time within the force, and the resulting post-traumatic stress syndrome he now suffers from which led to his early retirement. He reflects on key events during his career as head of Belfast regional CID, such as the CID’s inadequacies when faced with the Omagh bombing and the murder of republican lawyer Pat Finucane. He also discusses the inadequacies he perceives in the RUC’s treatment of officers suffering from post-traumatic stress disorder.

Prisons

Report on an unannounced full follow-up inspection of HMP Leeds 3 – 12 March 2010, Anne Owers. *HM Chief Inspector of Prisons* (June) 2010, pp. 145. Among the inspector’s concerns were: i. “a high proportion of prisoners said they had felt unsafe: induction processes were poor and systems to investigate and monitor alleged incidents of victimisation were weak”; ii. “the level of illicit drug use was high, and there was insufficient attention to supply reduction”; iii. “despite some effective work on race and religion, black and minority ethnic, and in particular Muslim, prisoners continued to have much more negative perceptions than other prisoners”; and iv. “there continued to be too little purposeful activity, although there had been some improvements to the range and quality of provision, and too many prisoners spent most of the day locked in cells”. Available as a free download: http://www.justice.gov.uk/inspectorates/hmprisons/docs/Leeds_2010_rps_.pdf

Recent developments in prison law – Part 1, Hamish Arnott, Nancy Collins and Simon Creighton, *Legal Action*, July 2010, pp.10-16. This series of updates reviews recent policy changes relating to indeterminate sentenced prisoners (ISPs), and important case-law concerning prison conditions, ISPs and determinate parole.

Human Rights and Prisons. *Just News* (Committee on the Administration of Justice) June 2010, pp.2-3. This article examines the failure of the Northern Ireland Prison Service to effectively apply certain recommendations concerning the rights of prisoners put forth by the Northern Ireland Human Rights Commission, the Northern Ireland Affairs Committee, the Prisoner Ombudsman for Northern Ireland,

Criminal Justice Inspection and others. According to the article, the areas most often flagged as being in need of attention include "Safer Custody; Security; Staffing and Management Issues; Daily Activity and Long-term Planning [...]; resettlement and reintegration; Health and well-being; Living conditions; Diversity and Equality; Complaints; Women; Discipline; Life-sentenced prisoners; and Juveniles". The article concludes that "Changes in the culture of the system is what is needed" to ensure that the Northern Ireland Police Service measures up to international and regional human rights benchmarks. CAJ email: info@caj.org.uk

The costs of barring 85,000 prisoners from voting today, David Pannick QC. *The Times* 6.5.10. Pannick considers the 2005 European Court of Human Rights ruling that it is a breach of the European Convention for the UK to disenfranchise all prisoners from voting in parliamentary and local elections. He describes as a "constitutional disgrace" the fact that this absolute ban persists four years on, as was exemplified in last May's general election. He argues that: "For the United Kingdom now to hold a general election that defies the European Court's ruling on eligibility to vote is, in itself, a matter of deep regret for a society that prides itself on the rule of law and democratic accountability."

Report on an announced inspection of the young adult units at HMYOI Stoke Heath 29 March – 2 April 2010, Anne Owers. *HM Chief Inspector of Prisons* (June) 2010, pp. 1590. This Young Offenders Institution was found to be failing the needs of young adults. Inspectors found that: i. a high proportion of young adults had felt unsafe; ii. the strategies and processes for violence reduction were overcomplicated and underused by residential staff; iii. the environment was dirty and uncared-for; iv. there was little proactive engagement or challenge, and the personal officer scheme was underused and undermanaged, and v. there had been an increase in the amount and range of work, training and education available in the establishment, and it was in general better managed and delivered. However, access for young adults was clearly insufficient to meet need. There were only sufficient vocational training places for 20% of the population. See: http://www.justice.gov.uk/inspectors/hmiprison/docs/Stoke_Heath_2010_rps_.pdf

Racism and Fascism

Racial Violence: the buried issue, Harmit Athwal, Jenny Bourne and Rebecca Wood. *Briefing Paper* No. 6 (Institute of Race Relations), pp.25. This research paper "shows the hideous fact that since Stephen Lawrence's death in 1993, eighty-nine people have lost their lives to racial violence – an average of five a year." The report analyses these racist murders and 660 cases of racist violence that the IRR has collated. Appendices examine official statistics on racist violence (Lee Bridges) and A. Sivanandan is interviewed about Islamophobia and anti-Muslim racism. The study concludes: "If you are an asylum seeker or a migrant worker or a foreign student, dispersed throughout the UK, or if you are a British Muslim, or could be mistaken for a Muslim, and maybe work in a trade where you are isolated and vulnerable, if you are from a settled BME community seeking to move into a more affluent, and traditionally white, area, there is a real and terrifying daily risk of becoming a victim to racial violence." Available at: http://www.irr.org.uk/pdf2/IRR_Briefing_No.6.pdf

EDL Unmasked. *Searchlight* no. 421 (July) 2010. This issue focuses on the anti-Muslim English Defence League and its links to the British National Party (BNP), the Loyalist paramilitary, Johnny Adair, and various football "firms". Another article considers the imminent leadership challenge to the BNP's Nick Griffin after their disastrous general election campaigns in Barking and Dagenham and Stoke-on-Trent. There is also a brief piece on a speaking tour of southwest England by the anti-Semitic "historian", David Irving.

Football hooligans to launch 'European defence League' in Amsterdam, Leigh Philips. *EU Observer* 31.8.10. The English Defence League (EDL), made up of violent far-right activists and football hooligans, has threatened to demonstrate in Amsterdam in October in support of the racist Geert Wilders. The far-right outfit's

latest outing in the UK was a provocative protest in Bradford when members pelted anti-racists with bricks, bottles and smoke bombs, leading to 13 arrests. The EDL will be joined by the recently launched French Defence League and Dutch Defence League, both modelled on the English street army model, in Amsterdam.

BNP terrorist jailed for weapons and explosives, Simon Cressy. *Searchlight* no. 416 (February) 2010, pp. 6-7. This article is on another far-right terrorist, Terence Gavin, who pleaded guilty in November 2009 to 22 charges involving explosives, firearms and collecting information useful for terrorism over a 10-year period. Gavin, a former soldier and British National Party member, was sentenced to a total of 11 years in prison in January. In a separate incident leading British National Party activist, David Lucas, was given a suspended prison sentence at Ipswich Crown Court after admitting possessing ammunition and gunpowder in June.

Security and Intelligence

Torture: the paper trail, Ian Cobain and Owen Bowcott. *The Guardian* 15.7.10. This article reports on documents, disclosed as a result of civil proceedings brought by six former-Guantanamo Bay prisoners against MI5 and MI6, the Home Office, the Foreign Office and the Attorney general's office, which show "the true extent of the Labour government's involvement in the illegal abduction and torture of its own citizens." The government has identified 500,000 documents that might be relevant, but has failed to hand over many of them to the men's lawyers, missing a "deadline imposed by the high court for the disclosure of the secret interrogation policy that governed MI5 and MI6 between 2004 and earlier this year."

The Prisoner: Guantanamo's last British detainee, Robert Verkaik. *Independent Life* 3.3.10, pp. 1-5. Salutory piece on the fate of Shaker Aamer who has been held without charge at Guantanamo Bay, Cuba, by the USA for eight years, three of the last four of them in solitary confinement. Verkaik examines his experiences and the role of MI5.

Bin Laden, the Taleban, Zawahiri: Britain's done business with them all, Adam Curtis. *The Guardian* 6.7.10. Curtis discusses "the connection between 7/7 and British foreign policy" describing the terrorist threat to Britain as "partly "blowback, resulting from a web of British covert operations with militant Islamic groups stretching back decades. And while terrorism is held up as the country's biggest security challenge, Whitehall's collusion with radical Islam is continuing." He examines historical and contemporary examples of this collusion, expressing concern "that the wards of state pledging to protect us have neither accounted for "blowback" nor stopped contributing to it. Government guided by morals would have different priorities and would discontinue policies based on interest that endanger us and much of the world."

"No Questions Asked": Intelligence Cooperation with Countries that Torture. *Human Rights Watch*, 2010, pp. 62. The report analyzes the ongoing cooperation by the governments of France, Germany, and the United Kingdom with foreign intelligence services in countries that routinely use torture. "The three governments use the resulting foreign torture information for intelligence and policing purposes. Torture is prohibited under international law, with no exceptions allowed." See: <http://www.hrw.org/en/reports/2010/06/28/no-questions-asked-0>

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Advance Notice
Statewatch: 20th Anniversary Conference
Saturday 25 June 2011
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