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## UK: Criticism of UK Terrorism Prevention and Investigation Measures mounts as government retains power to forcibly relocate suspects

by Max Rowlands

**In another U-turn on civil liberties, the government is introducing emergency legislation that will allow it to impose on terrorism suspects many of the draconian restrictions they had promised to do away with.**

The coalition government is to retain the power to force individuals suspected, but never convicted, of involvement in terrorism to leave their home for government owned accommodation in a different part of the country. It had pledged that relocation orders would not be included in Terrorism Prevention and Investigation Measures (TPIMs), the new system of social controls for terrorism suspects scheduled to replace control orders at the beginning of 2012. But in September 2011, the government published draft legislation for an ‘enhanced’ version of TPIMs that will allow for the imposition of more severe restrictions – including forcible relocation – in “exceptional circumstances.” TPIMs have been widely condemned for being little more than control orders rebranded because they share the majority of the outgoing system’s shortcomings. Both schemes operate outside the criminal justice system and infringe fundamental civil liberties. The government said that TPIMs would tone down the severity of restrictions imposed on suspects, but their ‘enhanced’ form will be virtually indistinguishable from control orders. Moreover, the creation of ‘enhanced’ TPIMs is symptomatic of an emerging trend whereby the government takes credit for abolishing draconian Labour government’s counter-terrorism powers only to reintroduce them a few months later in an emergency capacity.

### Control Orders

Britain is the only country in the common law world to outlaw entirely the use of intercept evidence in court. Its intelligence services insist that the practice would compromise their sources (covert interception of communications, informers, foreign intelligence services etc.) and reveal many of their operational practices and capabilities, jeopardising national security in the process. In terrorism cases this rigid policy makes it extremely difficult to take suspects to court because most of the material

amassed against them is obtained by MI5 and is therefore inadmissible. The government thus faces a legal quandary of its own making: it is unwilling to authorise the disclosure of evidence held on terrorism suspects, but is equally reluctant to let people it believes pose a security threat walk free.

Since March 2005, the solution has been control orders: a system of social controls which places suspects under virtual house arrest; with 16 hour curfews, electronic tagging, and strict limits on – among other things - freedom of movement, association and employment. It can also include a relocation order which forces people to leave their community for a different part of the country, away from their family and friends. Control orders are issued in closed court hearings that neither the defendant nor their lawyer is allowed to attend. Instead the government appoints a ‘special advocate’ to act on their behalf. Effectively this means that people are punished indefinitely, without charge or trial, on the basis of secret evidence that they are not permitted to hear or contest. In this sense control orders operate outside the criminal justice system, bypassing due judicial process and undermining the fundamental democratic tenets of the presumption of innocence and the right to a fair trial.

The Liberal Democrats were scathing in their criticism of control orders in opposition and unequivocally advocated their abolition. The Conservatives were less consistent, tending to condemn control orders in the media but electing to abstain in parliamentary votes on whether to renew the system. Upon the formation of the coalition government in May 2010, one of the big questions was whether the Lib Dems would be able to hold sway on this issue within the government and withstand the considerable pressure exerted by the intelligence services and civil service ‘securicrats’ who were firmly wedded to the Labour government’s anti-terrorism laws.

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**The EU’s self-interested response to unrest in north Africa** see page 8

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## Terrorism Prevention and Investigation Measures

The coalition announced a “rapid review” of “key counter-terrorism and security powers” in July 2010, and released its findings in January 2011. Home Secretary Theresa May told parliament that control orders would be replaced with Terrorism Prevention and Investigation Measures. She said that the new system would be less prohibitive and intrusive, and would be complemented by increased funding for police surveillance of suspects. The *Terrorism Prevention and Investigation Measures Bill* was introduced in May 2011, and having passed through the Commons is currently awaiting its second reading in the House of Lords. The Bill is expected to receive royal assent by the end of the year.

The government has strained to emphasise differences between the two systems, focussing on the application process in particular. A TPIM will be imposed only if the Home Secretary “reasonably believes that the individual is, or has been, involved in terrorism-related activity,” a higher threshold than control orders which require “reasonable suspicion.” [1] Each TPIM must also be approved in advance by the High Court and can last no longer than two years unless there is evidence that the individual has re-engaged in terrorism.

Once in effect, however, a TPIM will be little different to a control order. All of the latter’s most controversial characteristics will be carried over in some form: curfews, electronic tagging, and restrictions on freedoms of association, employment and movement. And like control orders, TPIMs will continue to operate outside the law, punishing people without charge or trial. The one positive, definitive change promised under the new system was an end to relocation orders; what Lord Macdonald, who provided independent oversight of the counter-terrorism review, described as “a form of internal exile, which is utterly inimical to traditional British norms.” [2] But this power is now being restored, albeit in an emergency capacity. The government published a draft *Enhanced Terrorism Prevention and Investigation Measures Bill* on 1 September which will allow additional restrictive measures to be imposed on suspects for 90 days “should exceptional circumstances arise.” The Bill itself is not unexpected - the counter-terrorism review made it clear that emergency powers would be introduced - but its scope is more severe than many anticipated. It stipulates:

*[The Bill] permits the Secretary of State to require the individual to relocate to Home Office-provided accommodation in another part of the country without his or her consent, and to require him or her to observe a curfew which may fall at any time during the day (whereas the power to confine an individual to his or her residence under the 2011 Act is limited to an “overnight” period).[3]*

It also includes tighter restrictions on movement, telephone and internet access (a minimum level of access will no longer be specified “so a total ban on access to devices can be imposed”) and association (someone given a normal TPIM will be required to seek prior permission from the Secretary of State before meeting with “a number of specified individuals,” but its ‘enhanced’ form can require them to seek permission before meeting literally anyone). [4] Typically an ‘enhanced’ TPIM will require parliamentary approval, but on 1 September the Home Secretary tabled an amendment to the *Terrorism Prevention and Investigation Measures Bill* that would allow for their imposition on a temporary basis at the government’s discretion if parliament is not sitting.

Although disappointing, the restoration of relocation orders and other severe restrictions is not surprising. Throughout 2011 the control order regime has operated exactly as it did under the Labour government. If the coalition truly believed that control orders were overly draconian and in need of repeal they could have lessened the restrictions being imposed on recipients

without waiting a year for TPIMs to receive parliamentary approval. The Joint Committee on Human Rights argued exactly this following the publication of the counter-terrorism review in January 2011: that the continued imposition of some sanctions could no longer be justified, and that the government should review urgently all existing control orders to ensure that they are compatible with the principal findings of its review. [5] Instead the government has continued to utilise all of the powers afforded to them by control orders precisely as before, and has even been to court to defend its right to do so. In May and July 2011, the High Court ruled in separate cases that the government was justified in banning terrorism suspects from living in London despite the clear infringement this posed to their right to respect for private and family life afforded by Article 8 of the European Convention on Human Rights. Both men, identified only as ‘CD’ and ‘BM,’ had argued that forcing them to live apart from their wife and children was unjustifiable. [6]

## Criticism of TPIMs

The decision to revive relocation orders has been widely condemned as another U-turn on civil liberties by a government that trumpets so vociferously its commitment to restoring “the rights of individuals in the face of encroaching state power.” [7] Liberty argues that should the *Enhanced Terrorism Prevention and Investigation Measures Bill* be passed “any substantive difference between control orders and TPIMs would entirely evaporate.” [8] Amnesty International UK branded the new system “a cheap make-over.” [9] There has also been back-bench opposition. Conservative MP David Davis said that the ‘enhanced’ Bill “seems to be at least as ill thought out as control orders, if not more so” because the purpose of relocation orders is supposed to be to prevent “exceptional circumstances” from occurring in the first place. They would now only be imposed in response to an emergency, which leads Davis to ask: “How can they be preventative if they can only be passed after the event?” [10] Tom Brake, co-chairman of the Lib Dem backbench committee on home affairs, said that he could not “envisage the extraordinary circumstances that would apply in which relocation powers would be acceptable” and warned the government that backbenchers would vote against their introduction unless fully satisfied of their necessity. [11] The Labour Party, which still advocates control orders and has relentlessly criticised any perceived weakening of anti-terrorism powers, described the emergency legislation as a “shambolic process” and accused the government of “putting political deals and fudges ahead of national security.” [12]

In his independent report on the counter-terrorism review, Lord Macdonald highlighted in particular the damaging consequences of the incongruity between control orders and the criminal justice system. He argued that this allows “controlees [to] become warehoused far beyond the harsh scrutiny of due process” which in turn leads to terrorist activity going unpunished: “a serious and continuing failure of public policy.” [13] Further, despite the government’s insistence that their priority has always been to prosecute terrorism suspects in the criminal courts, control orders actively undermine their capacity to do so. The security service acts as “lead agency” in these cases and “has their own priorities, which are very likely to be protective rather than prosecutorial in nature.” [14] It is near impossible for police to build a case against a suspect who has been forced to live in isolation and banned from using a telephone or the internet. For Macdonald this is particularly damaging:

*I have no doubt that were a regime of restrictions against terrorist suspects to be linked to a continuing criminal investigation into their activities, many of the constitutional objections to such a regime would fall away. It is precisely*

*because the present control order system stands apart from criminal due process that it attracts such criticism.*[15]

He argues that any system of social controls imposed on terrorism suspects must be linked directly to criminal prosecutions. At present, control orders require the police only to assess regularly the quality of evidence held against suspects; a level of scrutiny Macdonald describes as “inadequate.” TPIMs will improve on this slightly by imposing a statutory duty on chief police officers to ensure “that the investigation of the individual’s conduct, with a view to a prosecution of the individual for an offence relating to terrorism, is kept under review throughout the period the TPIM notice is in force.” [16] But it could go much further. Macdonald suggested that restrictions should only be imposed on suspects if the Director of Public Prosecutions believes a criminal investigation into that individual is justified. This would “sharply highlight the need for the prohibitions positively to assist, rather than to hinder, the route to prosecution, conviction and imprisonment.” [17]

The House of Lords Select Committee on the Constitution raised similar concerns in its report on the TPIM Bill published on 15 September. It branded TPIMs an “unsatisfactory” compromise and concluded: “It is not clear that the TPIMs Bill, as currently drafted, sufficiently addresses these [Macdonald’s] concerns.” [18] The Committee also highlighted the fact that the TPIM regime will be permanent, unlike control orders which required annual renewal by parliament, and questioned “whether it is constitutionally appropriate to place on a permanent basis such a scheme of extraordinary executive powers.” [19]

### **An emerging trend**

A common trend is emerging whereby the government scraps draconian counter-terrorism laws, promoting its commitment to civil liberties in the process, only to restore the powers within a matter of months in an emergency capacity. This happened with section 44 of the *Terrorism Act 2000* which gave police powers of indiscriminate stop and search. The government took credit for abolishing the much maligned law in July 2010, but then rebranded and reintroduced it six months later in the *Protection of Freedoms Bill*. [20] The government also took credit for reducing the maximum length of pre-charge detention for terrorism suspects to 14 days in January 2011 (still the longest anywhere in the western world), but less than a month later introduced the *Detention of Terrorist Suspects (Temporary extension) Bill* which will allow the government to revert to the 28 day limit in “exceptional circumstances.” [21]

The coalition government appears unwilling or unable to abandon the Labour government’s counter-terrorism legislation completely. Certainly the speed with which it has returned these powers to the statute books indicates that it does not believe them to be wrong in principle.

### **Footnotes**

- [1] *Terrorism Prevention and Investigation Measures Bill, clause 3:* [http://www.publications.parliament.uk/pa/bills/lbill/2010-2012/0091/lbill\\_2010-20120091\\_en\\_2.htm#pb1-l1g1](http://www.publications.parliament.uk/pa/bills/lbill/2010-2012/0091/lbill_2010-20120091_en_2.htm#pb1-l1g1)
- [2] *Review of counter-terrorism and security powers – A report by Lord Macdonald of River Glaven QC, p.12*  
<http://www.homeoffice.gov.uk/publications/counter-terrorism/review-of-ct-security-powers/report-by-lord-mcdonald?view=Binary>
- [3] *Enhanced Terrorism and Prevention and Investigation Measures Bill Explanatory Notes, p.4:* <http://www.homeoffice.gov.uk/publications/about-us/legislation/etpim-bill-docs/etpim-draft-bill?view=Binary>
- [4] *ibid*
- [5] *Joint Committee on Human Rights report on Renewal of Control Order Legislation* 2011:  
<http://www.publications.parliament.uk/pa/jt201011/jtsselect/jtrights/106/10604.htm#a10>
- [6] *Full judgment for each case: ‘CD’*  
<http://www.bailii.org/ew/cases/EWHC/Admin/2011/1273.html> and ‘BM’  
<http://www.bailii.org/ew/cases/EWCA/Civ/2011/366.html>
- [7] *The Coalition: our programme for government, p. 11:*  
[http://www.cabinetoffice.gov.uk/media/409088/pfg\\_coalition.pdf](http://www.cabinetoffice.gov.uk/media/409088/pfg_coalition.pdf)
- [8] *Liberty website, 2.9.11*  
<http://www.liberty-human-rights.org.uk/news/2011/anyone-for-tpims-control-orders-with-a-twist-phi>
- [9] *Amnesty UK website, 4.9.11:*  
[http://www.amnesty.org.uk/news\\_details.asp?NewsID=19666](http://www.amnesty.org.uk/news_details.asp?NewsID=19666)
- [10] *The Guardian, 1.9.11:*  
<http://www.guardian.co.uk/politics/2011/sep/01/exile-plan-terror-bungled-measure?INTCMP=SRCH>
- [11] *BBC website, 5.9.11:* <http://www.bbc.co.uk/news/uk-14797359>
- [12] *The Telegraph, 2.9.11:*  
<http://www.telegraph.co.uk/news/politics/8737181/Emergency-powers-could-bar-terrorist-suspects-from-London-for-the-Olympic-Games.html>
- [13] *Review of counter-terrorism and security powers – A report by Lord Macdonald of River Glaven QC, p.10:*  
<http://www.homeoffice.gov.uk/publications/counter-terrorism/review-of-ct-security-powers/report-by-lord-mcdonald?view=Binary>
- [14] *ibid*
- [15] *ibid*
- [16] *Terrorism Prevention and Investigation Measures Bill, clause 10(5):*  
[http://www.publications.parliament.uk/pa/bills/lbill/2010-2012/0091/lbill\\_2010-20120091\\_en\\_2.htm#pb4-l1g10](http://www.publications.parliament.uk/pa/bills/lbill/2010-2012/0091/lbill_2010-20120091_en_2.htm#pb4-l1g10)
- [17] *Lord Macdonald report, p.11*
- [18] *House of Lords Select Committee on the Constitution report on Terrorism Prevention and Investigation Measures Bill, p.5:*  
<http://www.publications.parliament.uk/pa/ld201012/ldselect/ldconst/198/198.pdf>
- [19] *ibid*
- [20] *See Statewatch analysis: UK: Review of counter-terrorism powers fails to deliver definitive change:* <http://www.statewatch.org/analyses/no-135-uk-ct-powers.pdf>
- [21] *Draft Detention of Terrorist Suspects (Temporary Extension) Bills:*  
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## **The Arab Spring of “Security made in Germany”**

**by Eric Töpfer**

**Investigative journalists have revealed a secret mission by the German Federal Police to train border guards in Saudi Arabia. The episode sheds light on the much broader engagement of the German security-industrial complex in arming authoritarian monarchies in the Gulf region.**

More than 500 German police officers are posted to foreign countries. They act as liaison officers, train colleagues, bolster border controls, support document checks at consulates, guard

German embassies and police crisis regions under the flag of the United Nations, the Organization for Security and Cooperation in Europe (OSCE) or the European Union. [1] It is well known

that the largest of the German police force's foreign missions are taking place in Afghanistan and Kosovo where almost 300 officers complement the military engagement of NATO troops. Nonetheless, it came as a surprise when it was revealed in April 2011 that another major mission is taking place in Saudi Arabia. Two weeks after soldiers from the oil-rich kingdom crossed the border into Bahrain to defend its ruling elite against the democratic protest movement, it coincided with a TV magazine *FAKT* report that dozens of German Federal Police officers were training thousands of border guards in the desert. [2] Moreover, the mission was reported to be closely linked to a billion dollar deal, involving European arms giant EADS-Cassidian, that includes the installation of a high-tech surveillance system along Saudi Arabia's 9,000 km sea and land borders. It is "the world's most important contract for security technology," according to Cassidian CEO Stefan Zoller. [3]

### **Deal involving EADS exports**

Although the German government denies that the training mission was *sine qua non* for the deal between EADS and the Arab kingdom, the details that became public suggest another story. In spring 2007, high-level talks began between EADS and the German Ministry of Interior (MoI); EADS manager Stefan Zoller met with MoI State Secretary August Hanning to discuss the planned modernisation of Saudi Arabia's border controls. They continued their exchange in October, considering a possible project design, and at the end of the year EADS submitted its bid to the Saudi Arabian Interior Ministry. At the same time the German Federal Police presented a training programme to officials in Saudi Arabia's capital city of Riyadh. In June 2008, Riyadh gave the green light for both the EADS offer and the German training programme. Over the following months representatives from the German MoI and the Federal Police visited Saudi Arabia on several fact-finding missions in order to develop the training concept in detail. In December 2008 a German project office was opened in Riyadh and the first training courses began in February 2009. [4] Three months later, on 28 May 2009, the German Minister for Interior, Wolfgang Schäuble, visited Riyadh and signed an agreement "on cooperation in the field of security," with his counterpart. The agreement addressed, among other issues, "collaboration in the field of security training." [5] A month later EADS announced that after years of negotiations it had signed a contract for the large-scale border surveillance system. [6]

Markus Hellenthal played a key role in arranging the deal. From 2004 until 2007 he managed the "Global Security" team at EADS Defence and Communication Systems, the "system house" of the corporation and part of the Defence and Security Division that became Cassidian. Hellenthal served as a high-ranking police officer in the Directorate of the German Federal Border Police (today the Federal Police) until the mid-1990s and then became a senior civil servant as head of the Department for Border Police and Aviation Security within the German MoI. After leaving the civil service in 1997 for jobs in the private sector he became a consultant for the global IT company Accenture and was based in Riyadh before he moved to EADS to launch the "Global Security" business line. He was able to attain major system integration contracts for border security in Romania and Qatar and to be shortlisted for the Saudi Arabia Border Guard modernisation programme. After preparing the ground for the potential deal between EADS, the Saudi Arabian government and the German MoI, Hellenthal expanded his career as the EADS lobbyist in Brussels which started when he became chairman of the European Security Research Advisory Board in 2005. [7]

Drawing on its extensive experience in installing Command Control Communication Computers and Intelligence (C3I) systems for the military realm, EADS is now installing a network

of sensors along Saudi Arabia's border that will be integrated by five regional, and one national, control centres. The German Federal Police will train the higher ranks of the Saudi Arabia Border Guard in how to assess and respond to the sensor data transferred to the control centres; in other words, they give lessons in situation awareness and command and control. For this purpose the German trainers were introduced to the detection and surveillance technology delivered by EADS as part of their preparation for the foreign mission. In addition, they will train the rank and file of the Border Guard in how to "handle weapons" (the German G3 rifle delivered by Heckler & Koch), surveillance and reconnaissance, search and arrest of persons, search of vehicles, and "self-defence to German police standards." During the early phase of the mission, Saudi Arabia's troops were also trained in searching houses and policing crowds, but the German government claims that these training modules have now ceased. [8]

Since the launch of the mission, around 80 German officers have been in Riyadh, Al Shouba and ArAr, desert outposts close to the border with Iraq. Most left the country after ten weeks but at least a dozen are staffing training camps on long-term duty. Although the training camps on the Iraq border are supposed to close at the end of 2012, courses are planned in other border areas for the next five years, staffed with up to 50 German trainers. By August 2011 the cost to German taxpayers reached €3.2 million for basic staff salaries and equipment. Additional costs of €7.6 million, covering foreign service bonuses and travel costs, have been transferred by the Saudi Arabian government via the local Al Rashid Corporation and EADS to the Organisation for International Cooperation (GIZ), the German development agency which eventually paid Federal Police trainers.

Information about the mission given to the German Parliament before it became public was negligible. Regular reports listing foreign police missions simply noted "basic training for executives of Saudi Arabia Border Guard" taking place "on an occasional basis," if they mentioned Saudi Arabia at all. [9] There was no word about the number of staff, the scale of the engagement or the relationship with EADS. Only whistleblowing by police officers, who were frustrated by their working conditions in Saudi Arabia and by the context of their engagement, brought the story to light. When grilled by the Parliamentary Committee for the Interior, MoI representatives played down the issue and pointed to the fact that similar deals, integrating the delivery of technical equipment and training, had been sealed with Qatar and Yemen under former Minister for Interior, Otto Schily (Social Democrats). Although admitting the "problematic" nature of cooperation with authoritarian regimes they stressed that Germany's strategic partnership with Saudi Arabia was of "direct security interest," recalling crucial information that led to the detection of parcel bombs on flights from Yemen to the United States in October 2010 came from sources in Saudi Arabia. [10] One aim of the cooperation, they added, is the transfer of the "rule of law," the effects of which, as being a "fluid process," can hardly be measured in a different cultural context. That Saudi Arabia's MoI requested German police officers for the job indicates, they maintain, the interest of the strategic partner in good governance. [11]

### **Brothers in arms: Germany and the oil sheikhs**

The mission, and its justification, is typical of German policy towards authoritarian monarchies in the Gulf region in general and Saudi Arabia in particular. It is one episode in a series of deals between the German military-security-industrial complex and the Arab sheikhs and sultans. In summer 2011, it was revealed that the Federal Security Council had secretly approved the export of 200 Krauss-Maffei Wegmann's Leopard 2 tanks and a factory to build under licence Heckler & Koch's automatic

G36 rifle (firing 750 bullets per minute) to Saudi Arabia. [12] The Gulf monarchies have become important customers for the German arms industry over the course of the 21st century. Arms exports to Bahrain, Qatar, Kuwait, Oman, Saudi Arabia and the United Arab Emirates increased from €65 million in 2000 to €793 million in 2009 – 11 per cent of the total German arms exports and one third of the exports to non-Western countries. Within a decade their share has multiplied tenfold. [13] As German arms suppliers increasingly target non-traditional markets in response to cuts at home, the Gulf region has become crucial to stabilising profits and arming forces at home with cutting-edge technology. Thus, the engagement of companies like EADS, [14] Rheinmetall or Krauss-Maffei Wegmann has the full support of the German national security establishment.

As part of the “global war against terrorism,” cooperation has also increased in matters of internal security. Before Berlin signed the agreement on security cooperation with Saudi Arabia in May 2009, similar agreements were sealed with the United Arab Emirates (2005), Kuwait (2007) and Qatar (2009). They went unnoticed by the public, although their scope covers much more than terrorism. From the agreements that are publicly available, we know that their stated aim is the prevention and investigation of all kinds of crime ranging from terrorism and drug trafficking to illegal migration, computer crime, copyright violations and property crime. [15] Thus, the German training mission in Saudi Arabia might be the largest but it is not the only one in the Gulf region. Between 2008 and 2010, German police officers trained bodyguards in Oman and coastal guards in Qatar; they tutored colleagues in the United Arab Emirates on how to protect and search VIP residences and in hostage-taking negotiations; they instructed border police in Oman, Qatar, Kuwait and United Arab Emirates on issues of airport and border security, identity and document verification, and they transferred expert knowledge in operative case management and online investigation to Oman and the United Arab Emirates. [16]

It is unknown if, and how, the training was integrated with the delivery of technical equipment such as the “National Shield” border surveillance system purchased by Qatar from EADS or with smaller contracts for online surveillance and data mining software. What is known is that the German MoI and police forces often pursue what they call “sustainable” cooperation, [17] meaning the integrated delivery of training and equipment, and in recent months it has become apparent that the German security industry is aggressively promoting homeland defence products in the Middle East. [18] Meanwhile, their efforts to diversify markets has gained the support of the Federal Ministry of Economics and Technology, which in November 2010 presented its *Future Market Civil Security* initiative aiming to promote the export of “Security Made in Germany.” [19]

Other aspects of German cooperation with the Gulf region include information exchange and coordinated operations. The available security agreements include a chapter on data protection, bearing the hallmarks of German bureaucracy. These chapters provide for principles of data security and accuracy, mutual notification – if requested – on the processing of transferred personal data, purpose binding and even rights to access and remedy for affected individuals. However, as the agreements allow transferred data to be processed for the purpose of preventing and investigating “significant criminal offences,” and as national law is supposed to govern access rights, these data protection regimes are useless paper tigers, obviously meant to appease potential concerns in Germany. Thus, claims by German MoI representatives that the provisions of the agreements offer protection against the abuse of transferred data for human rights violations are nothing but lip-service. Nonetheless, the Federal Criminal Police Office (BKA) is deploying two liaison officers in Riyadh and Abu Dhabi for several years. [20]

The “sustainable” cooperation between the Federal Police and EADS with Saudi Arabia is the tip of an iceberg representing a much broader engagement of the German security-industrial complex with the Gulf monarchies. The Arab revolutions have demonstrated the myopia of such a stabilisation policy the powerful German national security establishment and the arms and security industry is blind to the fallout of their engagement.

## Endnotes

1. *Deutscher Bundestag: Drucksache 17/6710, 29.7.11; H. Busch: Von der Ausnahme zur Normalität. Polizei unterwegs im Ausland. In: Bürgerrechte & Polizei/CILIP, Issue 96 (2/2010), pp. 3-14.*

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4. *Deutscher Bundestag: Drucksache 17/6102, 8.6.11, p. 4.*

5. *Bundesministerium des Innern: Deutschland und Saudi Arabien vereinbaren engere Zusammenarbeit im Sicherheitsbereich. Press release, 28.5.09.*

6. *EADS: EADS wins national security program for the Kingdom of Saudi Arabia. Press release, 30.6.09.*

7.

*http://www.ict.org.il/biographies/drmarkushellenthal/tabid/183/default.aspx*

8. *Deutscher Bundestag: Drucksache 17/6102, 8.6.11; Drucksache 17/6863, 26.8.11.*

9. *Deutscher Bundestag: Drucksache 16/10252, 19.9.08, p. 21; Drucksache 16/12968, 11.5.09, p.13; Drucksache 16/13897, 14.8.09, p. 13; Drucksache 17/84, 27.11.09, p. 10; Drucksache 17/2265, 22.6.10; Drucksache 17/2845, 3.9.10; Drucksache 17/3931, 25.11.10, p. 14.*

10. *Bundestagsinnenausschuss: Minutes of the 37<sup>th</sup> session, 6.4.11.*

11. *Deutscher Bundestag: Drucksache 17/6102, 8.6.11.*

12. *Deutschland will Saudi-Arabien Kampfpanzer liefern. In: Spiegel Online, 2.7.11.*

*http://www.spiegel.de/politik/deutschland/0,1518,771989,00.html. Saudis schwören auf deutsche Sturmgewehre. In: Spiegel Online, 13.8.11. http://www.spiegel.de/politik/deutschland/0,1518,779924,00.html*

13. *Own calculation on the basis of figures from the Federal Government reports on arms exports 2000, 2005 and 2010. Deutscher Bundestag: Drucksache 14/77657, 23.11.01, pp. 49-79; Drucksache 16/3730, 4.10.06, pp. 76-122; Drucksache 17/4200, 16.12.10, pp. 81-128.*

14. *Though EADS is a multinational European corporation registered in the Netherlands 44,000 EADS employees work in Germany and the Cassidian Division has more sites in Germany than in any other European country.*

15. *Available are the ratified agreement with UAE (Deutscher Bundestag: Drucksache 16/9039, 5.5.08) and the initialed agreement with Saudi Arabia notified to the Parliament's Committee of Interior. Innenausschuss: Ausschussdrucksache 16(4)660, 12.8.09.*

16. *Information drawn from answers by the Federal Government on parliamentary requests for foreign police missions. For numbers of documents see footnote 9:*

17. *E. Töpfer: Weltpolizist BKA. Von Interpol Wiesbaden zur*

*Vorverlagerung nach Berlin, In: Bürgerrechte & Polizei/CILIP, Issue 96 (2/2010), pp. 15-24 (22).*

18. *In January 2011 a high-ranking official of the Ministry of Economics and Technology visited the UAE for talks on cooperation in the field of security technology on occasion of the opening of the trade fair INTERSEC. Bundesministerium für Wirtschaft und Technologie: Parlamentarischer Staatssekretär Otto besucht Vereinigte Arabische Emirate, Press Release, 20.1.2011. Nahost: Überwachung Made in Germany. 8.3.11. http://fm4.orf.at/stories/1678054/. See also the website of the international conference on “lawful interception” ISS World Middle East and Africa being held in Dubai on 21-23 February 2011.*

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## Dresden "Handygate" scandal and the persecution of anti-fascist activists by Kees Hudig

**In February 2011, anti-fascist groups prevented a right-wing demonstration from taking place in Dresden. It has since emerged that prior to the event, police used controversial 'thought-crime' legislation to launch an unprecedented operation to intercept all telecommunications data in certain parts of the city.**

On 19 February 2011, a broad anti-fascist coalition succeeded in stopping one of the largest right-wing demonstrations in Germany. This was the second occasion on which the far right demonstration, which included many overt fascists, was prevented from marching in Dresden due to widespread resistance (see *Statewatch* Volume 21 no. 1). This was not only a blow for the extreme right but also for the German state, which had deployed a massive police operation for the right-wing demonstration. It has since been revealed that the authorities also organised a massive interception of counter-demonstrators' telecommunications data prior to the event in order to criminalise them with charges using 'thought-crime' legislation.

The use of Article 129 of the German Criminal Code (hereafter 129 StGB) is a long-standing interception and prosecution tool used by the German authorities against the left. It grants the police and prosecution services far-reaching powers to fight serious crime (whereby group membership rather than proof of an individual's guilt is sufficient to trigger the police powers and in some cases secure convictions). What has become known as the 'handygate' scandal (handy being a German reference to a mobile phone) has been widely discussed in the media and in regional and national parliaments, because some of the anti-fascist activists whose phone data was intercepted, and who now face prosecution, are also parliamentarians and lawyers. Furthermore, data collected through interception methods is unlawfully being used in criminal prosecutions.

### Police repression of anti-fascist coalition

The Bündnis Dresden Nazifrei (Coalition for a Nazi-free Dresden) called for decentralised street occupations and blockades around the square from which the fascist march would start. The police tried to clear the road for the march but a mass of people prevented them by blocking the streets. The police claimed that some demonstrators were violent and attacked them, leaving more than a hundred officers injured. The blockade lasted for five hours, after which the permit for the demonstration lapsed and demonstrators returned to their buses and trains and were escorted by police out of the city. It became clear that the police were actively targeting counter demonstrators.

That evening, the Saxony regional crime police authority authorised the Spezialeinsatzkommandos (SEK, special riot unit) to raid a centre shared by the left-wing Die Linke party and a youth centre (Haus der Begegnung), which had functioned as the media centre for the coalition. Masked police officers arrested 22 people, among them the coalition's official spokesperson, and searched offices and rooms, confiscating computers, telephones and other technical equipment. The offices of a lawyer, a Member of Parliament (*Die Linke*), a migrant association, a

youth centre and a private apartment were also raided. [2] On the same day, the police failed to intervene when a large group of right-wing demonstrators attacked an alternative housing project ('Praxis') in the Löbtau neighbourhood with stones, bottles and sticks. Police regulating traffic watched on and did nothing to intervene.

### Handygate scandal: repression and prosecutions

In March and April 2011, 20 houses were searched in the regional states of Saxony and Brandenburg. Seventeen people were charged under Article 129 StGB with forming part of "an organisation with the intent of committing a criminal offence." The process of criminalisation continued on 5 May, when the 'Praxis' housing project - the same building that was attacked on 19 February - was raided by 150 policemen carrying automatic weapons.[3]

During the course of legal proceedings against people who took part in the anti-fascist blockades, it was revealed that the police had set up a large and unprecedented operation to gather information from mobile phone providers. This became clear from prosecution files on those facing charges, most of whom were accused of "obstructing a legally permitted demonstration." Police presented data obtained from mobile phone providers to show their involvement. The newspaper *Die Tageszeitung* described the case of Christian Leye, assistant to MP Sevim Dagdelen (Linkspartei), who was ID-checked by police during the protests and later summoned for obstruction. [4] His prosecution file showed that the police had provided data on 15 calls he made during the blockades, with the exact location of each call and who he had called (so-called telecommunications traffic data).

It became clear that the police had systematically collected all telecommunications traffic data in certain parts of the city, and were using this information to prosecute demonstrators. This interception (Funkzellenauswertung, FZA) [5] lasted for at least four hours. Another person who learned that his phone data had been collected and included in a prosecution file was the Green party parliamentarian, Hans-Christian Ströbele. He is also a lawyer so should have had legal protection against data collection of this kind. Both the Left party (*Die Linke*) and the Green party (Bündnis 90 / Die Grünen) have requested a special debate in the Saxony regional parliament about the police's conduct.

### Data harvesting

The most conservative estimate is that the traffic data of at least 40,000 people was 'harvested' by police, totalling approximately one million data records. The Green party has urged those who used a phone in the targeted area on the day to make an official

request for information on whether their personal data were collected and if so, to file a complaint against this unlawful infringement of their privacy. [6] According to the anti-fascist coalition Dresden Nazifrei, hundreds of people have filed information requests. [7]

On 24 June, Saxony regional government defended the data collection operation in the report *Bericht zur Erhebung und Auswertung von Mobilfunkdaten* [8]. Regional ministers of justice (Jürgen Martens, from the Freie Demokratische Partei) and interior (Markus Ulbich, from the Christlich Demokratische Union Deutschlands) acknowledged that data from all phones in certain areas was collected. They claimed that because this only concerned traffic data (i.e. information on callers and those called, but not personal data on individuals or the content of their calls) it was within legal remits. The only failure on the prosecution's part, they conceded, was to include this information in their files. This led to an increase in public criticism because it was now evident that the data used in legal procedures went much further than ministers had said. When the extent of the interception became clear ministers blamed the police for misinforming them and the Chief of Police, Dieter Hanisch, was fired.

The legal defence group *Initiativgruppe*, which formed to monitor the scandal, said "the pattern is that [the authorities] only admit to what cannot be denied anymore." [9] New facts appeared almost daily and the newspaper *Tageszeitung* revealed on 28 June that the police might even have listened to 'live' phone conversations, using a so-called IMSI-catcher. [10] This led to debate in the regional parliament on 29 June, where regional interior minister Ulbich initially denied that such methods had been used, but when confronted with evidence to the contrary stated [11] that "he could not rule out that such an instrument had been used in criminal investigations." The next day both the media and politicians called for his resignation. Ulbich read a statement in the regional parliament from the Dresden prosecutor's office (Staatsanwaltschaft) declaring that the data operation was legal within the framework of investigations into the "forming of a criminal organisation" (the infamous Article 129 StGB, used regularly to prosecute left-wing political activists by declaring them part of a criminal organisation).

On 1 July, the case went national after a debate in parliament at which it became clear that at least 300,000 individuals' phone data had been collected and in 45 cases had been used in a prosecution. [12] The precise method used by police is unclear, nor is it known what type and how much data from how many people was collected and stored. The Saxony data protection officer (Datenschutzbeauftragte), Andreas Schurig, will lead an investigation and publish the results before 10 September.

### Police criminalise a youth pastor

One of the demonstrators who spoke out against the prosecution of anti-fascists and the data collection operation was Lothar König, a 57-year-old youth pastor from Jena, in the regional state of Thuringia. He had been present at the protests in his Volkswagen van. A few days after speaking out in the weekly magazine *Der Spiegel*, his house was raided and searched by 30 police officers. Curiously, the officers were employed by the Saxony regional state and were not officially authorised to act independently in Thuringia. This was explained by the authorities as the result of a 'miscommunication' between the two forces. The pastor was not home at the time of the police raid, and he was not arrested, but his van and many possessions were confiscated.

König was accused of a violent breach of the peace ("aufwieglerischen Landfriedensbruch") with police claiming that he called for stones to be thrown at them through a sound system on the roof of his van. The day after the raid on his home,

600 people demonstrated in Jena against his criminalisation and many organisations and prominent people spoke out against his persecution, including fans of local football club Carl Seiz Jena. [13]

### Thought crime and Article 129 StGB

At a court hearing on 19 August, the Dresden public prosecutor announced that the charges against König under Article 129 StGB would be dropped. [14] He will still be prosecuted for an aggravated breach of the peace (during protests against the fascist march in February). Many others, however, are still being prosecuted under Article 129 StGB. [15] Two police raids on 12 April and 2 May resulted in charges against 41 people, brought on grounds of Article 129 StGB. Many more people are accused of aggravated breach of the peace (schwerer Landfriedensbruch, Article 125a StGB), incitement to commit crimes (Aufruf zu Straftaten, Article 111 StGB), property damage (Sachbeschädigung, Article 303 StGB) or causing bodily harm (Körperverletzung, Article 223). Article 129 (and its anti-terrorist extensions, Articles 129a and 129b) is controversial because the definition of a "crime" is vague and includes the act of 'recruiting members for such an organisation.' Furthermore, under Article 129 people can be prosecuted even when there is no evidence that individual crimes have been committed - being part of the presumed organisation suffices. Therefore, the provision is also called a "thought crime Article" (Gesinnungsparagraph) by critics.

### Endnotes

[1]: see 'State and police repression against broad antifascist coalition in Germany' in *Statewatch Bulletin Volume 21, no. 1*

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[4] *Taz* 19/06/11: *Mal eben ausgespäht* <http://www.taz.de/!72708/>

[5] Background information in German: <http://euro-police.noblogs.org/2010/03/funkzellenauswertung/>

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[8] *Bericht zur Erhebung und Auswertung von Mobilfunkdaten* <http://www.medien-service.sachsen.de/medien/news/160218/assets>

[9] <http://www.sachsens-demokratie.net/?p=116>

[10] *Taz* 28/06/11 <http://www.taz.de/!73377/>

[http://de.wikipedia.org/wiki/Lothar\\_K%C3%B6nig\\_%28Theologe%29](http://de.wikipedia.org/wiki/Lothar_K%C3%B6nig_%28Theologe%29)

[11] <http://www.medien-service.sachsen.de/medien/news/160269>

[12] <http://www.taz.de/1/politik/schwerpunkt-ueberwachung/artikel/1/handygat-im-bundestag/>

[13] <http://annalist.noblogs.org/post/2011/08/16/jena-neue-ermittlungen-aber-vielleicht-doch-nicht/>

[14] [http://nachrichten.lvz-](http://nachrichten.lvz-online.de/nachrichten/mitteldeutschland/umstrittene-razzia--ermittlungen-gegen-jenaer-pfarrer-teilweise-eingestellt/r-mitteldeutschland-a-102311.html)

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[15] <http://hundertneundzwanzigev.blogspot.de/chronik/>

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# The EU's self-interested response to unrest in north Africa: the meaning of treaties and readmission agreements between Italy and north African states

by Yasha Maccanico

**The Italian government and the EU are attempting to urgently re-establish readmission agreements with new regimes in Egypt, Tunisia and Libya with scant regard for the wellbeing of refugees and asylum seekers. A 'state of emergency' has been declared in Italy which has allowed the government to derogate from certain laws and fast-track the application process.**

Migrants fleeing unrest in north Africa began arriving in Italy in late 2010. Between January and August 2011, Italy has attempted to deal with the arrival of 51,811 people on its shores. A popular uprising ousted Tunisian president Ben Ali, who had been in power since 1987, on 14 January 2011. In Egypt, president Hosni Mubarak, who had been in power since 1981, was forced to resign on 11 February 2011 handing power over to the Supreme Council of the Armed Forces. The UN Security Council approved Resolution 1973 on 18 March 2011 and a NATO-led coalition intervened to impose a "no-fly zone" over Libya, supposedly to protect its population. Some countries (France in particular) armed and trained rebel forces in what developed into a civil war. Italy had good diplomatic relations with the three regimes prior to the crisis, signing readmission agreements and treaties that resulted in fast-track returns of migrants. These were widely condemned for enabling collective refoulements and stripping their nationals, or people who had travelled to Italy through these countries, of the chance to apply for asylum.

The Italian government responded to the sudden arrival of migrants by calling a "state of emergency." They introduced a series of measures to organise reception, detention and the issuing of temporary residence permits for humanitarian protection and attempts to resurrect readmission agreements with regimes that were in gestation or any viable counterparts in the north African countries. The backdrop to these initiatives was continuing deaths of migrants at sea and increasing tension at Italy's formal detention facilities, reception centres for asylum seekers (CARAs) and identification and expulsion centres (CIEs). Tension was also high at the "temporary identification and expulsion centres" (CIETs) set up to deal with the new arrivals. The practice of funnelling arrivals through the small island of Lampedusa lent a visual aid to claims that a "biblical exodus" and "catastrophic influx" were underway, which reached a climax when interior minister Roberto Maroni warned of an "invasion by one and a half million refugees in Italy." Available figures show that Italy received only a fraction of the people who went to Tunisia or Egypt when they fled Libya. This did not stop the Italian government and EU Commission officials from exerting pressure on regimes that were in gestation for cooperation to counter "illegal" immigration, effectively subordinating their support to the implementation of repatriation agreements and tight immigration regulations involving control and punishment under penal law for attempted crossings. It is worth noting that periods which follow such upheavals and revolts often entail the settling of scores with people or groups identified as collaborators or beneficiaries of fallen regimes. Thus, the existence of new authorities with which the resumption of "business as usual" is possible does not mean that their nationals will not require forms of protection from persecution (often ruled out as a result of readmission agreements). This may also apply to foreign workers in these countries. Reports from "liberated" (by the National Transitional Council) Tripoli in August 2011 mentioned cases in which black Africans were arrested or beaten up as possible mercenaries hired by the

Gaddafi regime.

A joint report published in May 2011 by *Cimade* and *Gadem* (respectively, French and Moroccan migrant support organisations) who travelled to the Tunisian border with Libya in April 2011 described the dialogue between Tunisian authorities, the Italian government and Commission president José Manuel Barroso. The Tunisian authorities were determined to assume a "new attitude when facing pressure that was deemed unacceptable from Europe and Italy." Post-revolutionary Tunisia would no longer allow migration to be treated as a mere "security" issue to the benefit of EU states. This had happened under Ben Ali, all the more so after the country let in 380,000 exiles from Libya. Nor would it accept having to close its borders to stop its own nationals from migrating. In this transitional phase, Tunisia needed support to resolve its economic and social problems. Mass repatriations from Lampedusa would not help it, striking a blow to democratisation and running contrary to public opinion in the country, which had become more attentive to "respect for human rights, social justice and personal freedoms." Thus, "a bilateral agreement aimed at enabling expulsion and readmission...based on asymmetrical interests" may, in the long term, be incompatible "with immediate priorities for social and economic development," wrote *La Presse de Tunisie*.

Nonetheless, an agreement with Italy allowing returns to Tunisia was reached on 5 April 2011 (see below). As for the EU's reaction, while Barroso stated on 12 April that "Europe is with you," stressing his "admiration for the Tunisian people," and pledging that Europe will "support reform in Tunisia" and "the enormous challenges" it faces, he also spoke of initiatives to get Tunisia to cooperate "in the management of migration flows." Thus, the EU supports reform in Tunisia, but expects "strong and clear action by Tunisia to accept the readmission of its nationals who are irregularly in Europe" and in "fighting irregular migration."

## The value of treaties

Extract from the *Treaty of Friendship, Partnership and Cooperation* between Italy and Libya, signed by Silvio Berlusconi and Muhammad Gaddafi in Benghazi on 30 August 2008, ratified by Italy in law no.7/2009, on 6 February 2009.

*Art. 3 - Not resorting to the threat or use of force*

*The Parties make a commitment not to resort to the threat or the use of force against the territorial integrity or the political independence of the other Party, or to any other means that are incompatible with the UN Charter.*

*Art. 4 - Non-interference in internal affairs*

*1. The Parties abstain from any form of direct or indirect interference in the internal or external affairs that fall within the other Party's jurisdiction, keeping to a spirit of good neighbourliness.*

2. *Within respect for the principles of international legality, Italy will not use, nor will it allow the use of its territories in any hostile act against Libya, and Libya will not use, nor will it allow the use of its territories in any hostile act against Italy.*"

On 26 February 2011, only two years after the treaty's ratification by Italy, foreign affairs minister Franco Frattini stated:

*"Effectively, the Treaty between Italy and Libya is .. not there anymore, it is not operating, it has already been suspended.*

On 7 March, Frattini clarified that:

*"Our Euro-Atlantic loyalty leads us to say that we will not be able to deny the [use of] military bases and logistic support."*

The next step was to emphasise that Italian support for the operation would not be merely logistical. Aircraft would be provided for missions, then their participation in "neutralising" (i.e. bombing) key military infrastructure. Arming and funding the rebels in Libya was also mooted as a possibility.

Following the approval of Resolution 1973 by the UN Security Council on 18 March, the Council of Ministers (the Italian Cabinet) announced that it authorised any "initiative to guarantee humanitarian support to the civilian populations in Libya, assuring an active role by Italy in the protection of civilians and of the areas in danger of an attack, including [the] concession of the use of existing military bases that exist on the national territory." It was left to defence minister Ignazio La Russa to explain the technical aspects, including which air bases would be made available, namely "Amendola, Gioia del Colle, Sigonella, Aviano, Trapani, Decimomannu and Pantelleria." He added that Italy could contribute to a "strong capability to neutralise radars and hypothetical opponents in Libya," in likely reference to the suppression of enemy air defences operation. Frattini confirmed that Italy will "guarantee use of its bases and not just that," noting that active participation also had the "objective of signalling Italy's absolute loyalty to the Atlantic [NATO] and European Union perspective." He justified the decision thus:

*It is absolutely obvious that without Italy, this mission cannot be enacted...you can perfectly understand that we could not even imagine, before a unanimous consensus by the international community, not to allow this mission to commence.*

It is worth recalling that the inclusion of the articles prohibiting the use of force and on non-interference in the other country's internal affairs had been a source of controversy when the treaty between Italy and Libya was first struck. However, if one side can unilaterally decide that a treaty no longer applies provisions in articles or formal commitments carry little importance. In this instance, the Italian government could refer to article 6 as justification for its shift because it contains a commitment by the two countries to respect human rights and fundamental freedoms in compliance with the UN Charter. However, while it is true that the UN Security Council supposedly adopted Resolution 1973 on human rights grounds in order to save civilian lives from an onslaught by the Libyan army, it also appears evident that intervention by foreign countries quickly developed into an effort to impose regime change and depose colonel Gaddafi by using rebels, who were unlikely to entertain hopes of ousting the regime without external involvement, as a proxy force, supporting them through air raids and assistance on the ground.

### **The meaning of readmission agreements**

Member states and EU institutions have been busy attempting to ensure that whatever regimes come to power in Tunisia, Libya and Egypt respect agreements to stem 'illegal' migration. There

has been a remarkable lack of soul-searching about the signing of readmission agreements which effectively replaced scrutiny of asylum applications and access to relevant procedures with fast-track returns and exclusion from the right to seek asylum. These agreements are based on the assumption that "genuine" refugees could not arrive from countries with which EU governments had good relations, including the signing and execution of readmission agreements. However, they included countries in which human rights violations were rife, resulting in many political prisoners. In pre-revolutionary Egypt and Tunisia, nationals were returned almost routinely, sometimes when they were at risk of being tortured or persecuted. In the wake of the so-called "Arab spring," the signing of agreements and their effects in terms of human rights violations (in this case: the refoulement of scores of people including non-nationals, sometimes within 24 or 48 hours of their arrival; centres to detain foreigners in inhumane conditions; serial repatriations of asylum seekers and a general fostering of racism against non-nationals in north Africa) should have had an impact on discussions in the bodies of an EU wishing to present itself as a beacon for human rights.

One example of these practices involved a boat carrying 131 people which landed near Catania (Sicily) on 26 October 2010. Passengers were held in the *PalaNitta* sports hall in the city's outskirts without UNHCR, or other organisations authorised to provide legal assistance or to monitor their treatment, being allowed to visit them. On 27 October, the interior ministry issued a press release that announced the expulsion of 68 of them to Egypt, explaining that: "Today's repatriation, enacted only a day after the illegals were spotted, is a direct consequence of the excellent relationship of cooperation that has been established for some time with the Egyptian authorities." The passengers had claimed they were Palestinians, but the interior ministry justified their repatriation on grounds that they were "all Egyptian citizens". The remaining passengers were either arrested (19) for "assisting illegal immigration" or held in specialised facilities for minors (44). This was hardly an isolated incident. "22 Egyptians were expelled in a charter flight from Rome to Cairo on 5 October," 21 of whom had landed on the Tyrrhenean coast near Latina (Lazio) the previous day; "55 Egyptians left Catania towards Cairo in two charter flights" on 20 and 29 September, part of a group of 82 people who had disembarked near Catania, and 34 Algerians who had disembarked on the Sardinian coast were expelled to Algeria between 14 and 22 October 2011. In a hearing in the *Camera dei Deputati* (the lower house of parliament) on 12 April 2011, Maroni noted that the bilateral agreement with Egypt worked better than the one with Tunisia, because "the agreement with Egypt allows us to immediately repatriate all the Egyptian citizens who arrive in Italy within 24 hours, with very fast bureaucratic and consular formalities," whereas the 1998 agreement with Tunisia, which Tunisia has always interpreted "restrictively, envisages the possibility of repatriating only three or four Tunisian citizens per day."

The Italian government has pressed to reinstate readmission agreements with the new regimes as soon as possible. On 5 April 2011 a Cooperation Agreement was stipulated between the Italian and Tunisian interior ministries to enable the "direct repatriation" of Tunisian nationals through a "fast-track procedure." Italy's eagerness to seal and enact this kind of agreement was evident on 17 June 2011, when it reached an agreement with the Libyan NTC after recognising it as the country's legitimate authority, despite the ongoing civil war. The NTC prime minister and foreign affairs minister Mahmud Jibril stressed "the NTC's commitment to respecting Libya's previous agreements with a country that is an historic friend like Italy." The agreement includes "shared management" of migration flows and the "repatriation of migrants in an irregular situation." ASGI (*Associazione di Studi Giuridici sull'Immigrazione*)

criticised the agreement on 30 June, noting, among other concerns, that its text was not disclosed to the public, that it was struck with a body that was not in control of the whole country and that departures were mainly from the part administered by Gaddafi (Tripolitania), who would presumably be returned to the region controlled by the NTC (Cyrenaica) in application of such an agreement. The fact that Libya has not signed the 1951 Geneva Convention on refugees is deemed further evidence that the country cannot be considered a “safe haven.” To conclude, the ASGI statement notes that “it is necessary to recall that the entire Libyan territory is subject to military operations and is certainly not a safe area for people’s life, security and safety.”

On 11 May 2011, Maroni claimed that the agreement with Tunisia “is working”, and “envisages forms of cooperation between our police and security forces...to counter illegal immigration but also and primarily to save human lives.” He was speaking at a ceremony during which four patrol boats were handed to the Tunisian authorities in Civitavecchia, a port city near Rome. He said that these last-generation boats will be the “direct responsibility” of the Tunisian National Guard, unlike in Libya where mixed Libyan-Italian crews were on board. Further material was provided, including 60 personal computers, 10 scanners, 20 printers, 20 portable metal detectors, with a view to handing over 28 off-road vehicles adapted to tropical conditions, 10 speedboat engines and 10 four-wheel cycles in the near future, and to repair seven 17-metre vessels that Tunisia already possessed. Maroni claimed that the agreement also envisaged training and the deployment of Italian liaison officers in Tunisia, noting that deportation flights from Lampedusa to Tunisia began on 8 April 2011.

### **Organising reception: emergencies, decrees, ordinances, circulars, Frontex**

During the first half of 2011, a number of decrees and measures for their implementation were approved to deal with the influx of migrants in Italy. Their scope has been wide-ranging:

Since 15 January, 12 naval vessels were deployed to control sea routes, with 24-hour aerial surveillance.

On 12 February, a prime ministerial decree declared a “humanitarian state of emergency” in Italy due to the extraordinary influx of citizens of north African countries, until 31 December 2011.

On 1 April 2011, interior ministry circular no. 1305 on “access to centres for immigrants,” denied access to anyone other than organisations that are participating in interior ministry-funded initiatives, including UNHCR, IOM, the Italian Red Cross, Save the Children, Médecins sans Frontières, Amnesty International and Caritas. The stated purpose for this decision is “not to obstruct activities” to deal with the substantial “influx of immigrants from north Africa.”

Critics including Fulvio Vassallo Paleologo of Palermo university have noted that the circular has been used to “limit the exercise of rights to defence” and deny access to lawyers wishing to provide those detained legal counsel and to migrant support organisations and journalists. It is all the more serious because the situation has resulted in the opening of several emergency detention or reception sites, like the euphemistically-named “solidarity village” CARA set up in a holiday village in Mineo (Catania) to host up to 2,000 asylum seekers, or a tent city set up on an airstrip in Manduria (Taranto) as a provisional CIE with places for 720 people.

Asylum seekers who were already in Italy before the present crisis were also sent to Mineo, interrupting their integration programmes and the social relations that they had established over time in the areas where they were held. Critics warned that this may have been a way to empty CARAs to enable them to be used as CIEs for new arrivals. This could be done, even though they do not comply with specifications for such centres, in view of powers entrusted to the Palermo police chief as special

commissioner under the “state of emergency”.

On 5 April 2011, a prime ministerial decree laid out temporary protection measures connected to the exceptional influx of nationals from north African countries, by issuing a six-month “residence permit for humanitarian reasons” to those who arrived between 1 January and 5 April 2011. The permit would be issued to those who have travel documents and are not excluded by other circumstances such as their being deemed dangerous or having been issued an expulsion order in the past which is still in force, and would allow them to travel throughout the Schengen area. On 12 April, Maroni explained that the migrants were identified, photographed, had their fingerprints taken and were entered into the Eurodac database in accordance with European rules and the Schengen Convention. Within three days, France re-established controls on its borders with Italy. This was followed by Denmark’s announcement on 11 May 2011 that it would re-introduce border controls. Home Affairs Commissioner Cecilia Malström criticised the actions of the three countries, accusing Italy and France of not respecting “the spirit of the Schengen rules” and expressing “concerns about the compatibility of Denmark’s strengthened internal control measures with the freedoms provided under the EU Treaty including the Schengen acquis.” She called on Denmark to “demonstrate factually that the gravity of the situation justifies putting in place controls.”

On 7 April 2011, a prime ministerial decree declared a “humanitarian state of emergency in north African territory.” This was done in order to be able to act to counter the influx of third-country citizens into Italy and to enable a humanitarian mission in the Tunisian-Libyan border region.

On 12 April 2011, the civil protection department produced a *Plan for the reception of migrants*. It had the three-fold aim of ensuring early reception, guaranteeing even distribution across Italy, and providing assistance to up to 50,000 migrants. The “even” distribution of migrants who arrive would be proportional to the different regions or autonomous provinces’ populations - except for Abruzzo, due to the earthquake it suffered on 6 April 2009; thus Lombardy, the region with the highest population (10,808,366), would receive 8,557 migrants, while Valle d’Aosta, with a population of 136,073 would receive 108.

On 21 April 2011, prime ministerial ordinance no. 3935 identified three new sites to be used as “temporary identification and expulsion centres”: Santa Maria Capua Vetere in the province of Caserta (Campania), Palazzo San Gervasio in Potenza (Basilicata) and Kinisia in the province of Trapani (Sicily). Five hundred extra detention places would be distributed between the three facilities, which were set to function until 31 December 2011, at a cost of €10m.

Further ordinances were adopted concerning staffing and funding for the emergency (on 26 July 2011), to give civil protection staff access to personal data to help them resolve the emergency (on 26 July 2011), and to enable “voluntary returns” by the IOM (on 10 August 2011). Circulars were issued by the civil protection department to regulate procedures concerning unaccompanied foreign minors who request protection (on 16 July 2011) and family reunion (on 12 July 2011).

Italy was also active in international fora, requesting assistance at the EU justice and home affairs ministers’ summit on 25-26 February 2011. They asked for the influx of migrants to be dealt with by sharing the burden between the member states in application of EC Directive 55/2001. The 5,526 arrivals (until 13 February) were not deemed to require this special assistance. Nonetheless, following an urgent request from the Italian interior ministry on 15 February, operation Hermes 2011, which had been scheduled to begin in June, was brought forward and started deploying in the central Mediterranean area on 20 February 2011. Italy, the host country, played the lead role and provided naval means, aerial means (alongside France, Germany, the

Netherlands, Malta and Spain) and experts alongside others from 11 different countries. A Europol mobile office was also deployed to Lampedusa in this operation in which maritime means were used to “patrol a predefined area with a view to detecting and preventing illegitimate border crossings to the Pelagic Islands, Sicily and the Italian mainland,” supported by aerial means to provide “enhanced border surveillance and search and rescue capability.” “[D]ebriefing and screening experts to identify migrants’ nationalities and to gather intelligence on people-smuggling networks” will be involved in what is termed “second-line border control.” On 23 March 2011, Frontex announced a five-month extension of the operation until the end of August 2011, extending its operative area to include Sardinia. The cost of running the operation for the first 40 days was €2.6m.

In her report to the *Camera dei Deputati* on 3 August 2011, on the umpteenth occasion migrants have died attempting to cross from Libya (25 men), the under-secretary for interior affairs, Sonia Viale, provided some official figures concerning arrivals from north Africa. She stated that 51,881 migrants had arrived in Italy by sea in 2011, 44,639 of them in the Pelagic islands, which marked a large increase on the number of arrivals recorded for the same period in 2010, (1,479 and 205 respectively). Viale noted that 84 vessels had set off from Libya and had carried 23,890 people to Italy, while there were a comparable number of arrivals, 24,854, from Tunisia. Those who arrived between 1 January and 5 April 2011 (almost all of them Tunisians) were granted temporary residence permits on humanitarian grounds. The under-secretary went on to note that since the readmission agreement struck with Tunisia on that same date, arrivals have decreased and repatriations are taking place more regularly. An understanding on countering “illegal” immigration was reached with the Libyan NTC on 17 June 2011, even though it only controlled part of the country. Operations by the police, which deployed a task force to Agrigento (Sicily), resulted in the arrest of 122 people in connection with arrivals in Lampedusa, 42 of them for “assisting illegal immigration.”

### **The “crisis” reveals questionable practices and routine abuses**

The measures adopted in response to the increasing number of migrants arriving from north African countries serve to highlight a number of practices that have become commonplace in Italy in recent years.

The first of these is a widening of the concept of “emergency.” Calling an emergency gives the government a wider remit to derogate from specified laws so as to resolve situations that cannot be dealt with through ordinary measures. Emergency powers are meant for “natural disasters, catastrophes or other events that, due to their intensity and extent, must be faced using extraordinary measures and powers,” but over the last few years have been called to deal with issues as wide and unexceptional as “urban security,” “Roma camps and settlements” (see *Statewatch news online*, November 2009), “waste disposal in Naples” or structural problems like “prison overcrowding.”

Although the situation in north Africa was worrying, the emergency was called when slightly over 5,000 migrants had arrived. An analysis by Massimiliano Vrenna and Francesca Biondi Dal Monte for ASGI notes that the government has repeatedly called and extended states of emergency since 2002 to deal with immigration, which is treated as though it were a “natural calamity” even when there is a wholly predictable influx of people from third countries. The urgent need specified in decrees declaring a state of emergency is to conduct “activities to counter the exceptional – later referred to as massive - influx of immigrants on Italian territory” (as happened on 11 December 2002, 7 November 2003, 23 December 2004, 28 October 2005,

16 March 2007, 31 December 2007, 14 February 2008 for Sicily, Calabria and Apulia and was extended to the whole nation on 25 July 2008 and 19 November 2009), stemming from a prime ministerial decree of 20 March 2002. Thus, Vrenna and Biondi Dal Monte’s observation that the emergency is “structural” appears well-founded. It has serious repercussions for the treatment of migrants (see below) and the awarding of contracts outside of normal procedures, with the involvement of the civil protection department whose competencies have been expanding considerably.

The second practice involves the expulsion, refoulement or deportation of migrants outside the limits and procedures established by legislation for this purpose. The failure to identify people, to issue formal decisions on an individual basis to refuse them entry or expel them, or to give them the opportunity to apply for asylum or other forms of protection, was a key concern when boats were intercepted at sea and either the vessels or their passengers were taken back to Libya between May and September 2009, when 1,329 people were returned. These rights were also denied to people arriving from Egypt and Tunisia in application of readmission agreements in the framework of the fight against illegal migration. Their presumed nationality was deemed sufficient to enact expulsions to these countries, because ongoing cooperation and good relations with Italy appeared sufficient to indicate that they were not in need of protection, regardless of the situation in their home countries. Moreover, information released by the Italian interior ministry details instances when people were sent back to Egypt in 2011. On 21 April, 18 Egyptians were flown to Cairo from Bari-Palese airport, and the press statement revealed that since the start of the year 183 Egyptians were repatriated only a few hours after their arrival. Similar operations using charter flights were also enacted on 22 April from Catania (19 people), on 23 April from Trieste (20), on 26 April from Bari (54) and on 27 April from Lamezia Terme (40). On 1 September, following evidence that returns at sea were taking place again, UNHCR spokeswoman Laura Boldrini explained that “We are only asking for the law to be applied,” namely, “access to the territory, identification procedures, access to asylum procedures and – if it is denied - a return decision.” The fast-track procedures enacted by Italy bypass the legal obligations of individual assessments, access to asylum procedures and the issuing of formal expulsion measures against which the people in question may file an appeal.

The third practice is the ill-treatment of migrants held in detention centres. Without dealing with this issue in depth, it is worth noting that what could be viewed as arbitrary detention is occurring on a large scale, in the absence of formal measures decreeing detention and without the possibility of appealing against decisions. In fact, after landing, migrants are summarily identified as either “illegal” migrants or asylum seekers, largely on the basis of their nationality. As Maroni stated in parliament on 12 April, “those who come from Tunisia are economic migrants, who therefore do not have the requirements to be considered refugees or asylum seekers,” unlike those from Libya, many of whom are from central Africa or the Horn of Africa, largely Somali or Eritrean nationals. On this basis, they are then sent to either CIEs to await their expulsion or CARAs for asylum seekers. Protests by detainees have included escapes, in Lampedusa, Manduria and Mineo (although the latter is regarded as a “model” by the interior minister), particularly when Tunisian detainees began realising that the agreement between Italy and Tunisia increased the likelihood that they would be repatriated. These have been echoed by a growing protest movement within detention centres nationwide leading to revolts, fires, hunger strikes and statements by detainees about their treatment. The complaints include overcrowding, unbearable heat, violence by guards, sexual abuse, the use of tranquilisers in detainees’ meals and their detention for lengthy periods. The protest gained strength after the latest legislative

step, law decree no. 89 of 23 June 2011, adopted in response to a European Court of Justice ruling that found Italy to be in breach of the Returns Directive (115/2008) by imprisoning “illegal” migrants, an effect of the criminalisation of illegal status. The new law raised the maximum length of detention in CIEs three-fold, from six to 18 months, the maximum allowed by the Returns Directive.

### Deaths in the Mediterranean on the rise

*Fortress Europe*, the blog run by Gabriele del Grande which records the certified deaths of migrants attempting to enter the EU, has estimated a figure of 1,674 deaths in the Sicilian Channel. That is 84% of the 1,931 who have died in the Mediterranean Sea during the first seven months of 2011. This figure is the highest ever recorded for the Mediterranean. It far outstrips the worst year on record, 2008, when there were 1,274 deaths in the whole year, which was more than twice those recorded in any other year since 2002. Comparing the figures to the estimated number of arrivals, Del Grande notes that the rate of deaths along the route from Tunisia, where 188 deaths were recorded, was one death for every 130 arrivals. From Libya, where 1,486 deaths were recorded, the figure was of one death for every 17 arrivals. The figures in the chart (below) only take into account cases that involved the highest number of casualties, but there appears to be a consistent trickle of deaths. On 10 May 2011, Migreurop issued a press release that was critical of the EU’s policy concerning people fleeing unrest and fighting in north Africa. It noted that the EU’s “war against migrants” in which forces acting due to a “responsibility to protect” are “disregarding...international law” has “caused more than 1,000 deaths since January 2011.” If Maroni’s claim that preventing deaths is a key priority were true, one would have to argue that it is failing in this regard. Restrictive immigration policies by the EU and its member states (in this case Italy) continue to result in deaths, human rights abuses and a lowering of standards, both internally and beyond its borders.

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## Statewatch News online

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- 12 February A collision off the coast of Zarzis (Tunisia) between a fishing boat that was heading for Lampedusa carrying 120 migrants and a Tunisian navy corvette resulted in five deaths and 30 people disappearing, amid allegations by survivors that the boat was deliberately rammed.
- 14 March A shipwreck off the coast of Zarzis resulted in 35 people disappearing en route to Lampedusa, according to claims by the five survivors.
- 1 April The bodies of 27 young Tunisians (between 19 and 23 years old) who died in two shipwrecks on 13 and 27 March, were recovered near the island of Kerkennah.
- 3 April Following a shipwreck off the Libyan coast, 68 dead bodies were recovered on the coast near Tripoli; the number of people who disappeared at sea is unconfirmed, although Habeshia press agency claimed that there may have been 250.
- 7 April A boat capsized during a rescue operation, resulting in at least 213 people disappearing at sea, 39 miles off the coast of Lampedusa.
- 13 April Two boats carrying around 495 Eritrean migrants from Libya towards Lampedusa were declared missing at sea twenty days after setting off, and after they had both called their community in Rome for assistance, but never arrived.
- 6 May A boat capsized after leaving Tripoli with 600 passengers on board, resulting, according to Somali sources, in 16 deaths and 32 people disappearing.
- 9 May Confirmation of allegations by the Eritrean community about boats lost at sea (see above) in the Guardian article on a boat carrying 72 Eritreans and left at the sea's mercy for a fortnight while NATO ships failed to intervene. 61 passengers died.
- 11 May The Tunisian government admits finding the bodies of 58 youths on several beaches who set off towards Lampedusa during the month of April.
- 21 May An eye-witness claims that a shipwreck near Zuwara (Tunisia) on 28 April resulted in 320 people disappearing at sea, while around ten others fell overboard from another ship and drowned, due to a storm at night.
- 2/5 June A fishing boat carrying 700 people capsized near Kerkennah island (Tunisia), causing two deaths and the disappearance of 270 people; the bodies of 26 people were recovered three days later.
- 29 July Egyptian coastguards recovered 30 bodies of people who died in the high sea near Alexandria during an attempted crossing to eastern Sicily.
- 1 August 25 bodies of people who died of asphyxia were found in the engine room of a boat. Another man was reportedly thrown overboard after a fight during the crossing.

Source: Fortress Europe, "Nel Canale di Sicilia almeno 5.962 morti dal 1994", 3.8.11. <http://fortresseurope.blogspot.com/2006/02/nel-canale-di-sicilia.html#more>

# Transparent social networks: investigations into digital social interactions

by Christiane Schulzki-Haddouti\*

**Police forces across Europe are increasingly using social media as an investigative tool to detect criminal activity, a technique that is already commonplace in the USA. The accuracy of this burgeoning practice is unclear, with the risk that innocent people will become embroiled in police investigations.**

People communicate, plan and organise online and can mobilise their peers through social media networks. On the basis of data produced through these interactions, criminal prosecutors can not only reconstruct social networks, they can also exploit social network services directly.

Numerous services facilitate communication on the so-called “Social Web”. Via social networks such as Facebook, Xing or LinkedIn, people can create and maintain contacts or expand their personal networks. Platforms such as YouTube and Flickr provide for the publication or exchange of videos and photos. Through microblogging services such as Twitter, short messages or pictures can be sent from computers or smartphones not only to friends but to large groups of interested people. Cooperation and collaboration through services supporting group communication expand the reach of users and allow an online presence. People thereby not only reveal intended information, but also disclose when and where they communicate and with whom.

The growth of social media has also opened up new communications and operational possibilities for criminal prosecutors. The COMPOSITE research project, [1] which analyses current trends in the police’s use of information technology in ten EU Member States, identified the use of social media as a core challenge. According to the coordinator of the study, Sebastian Deneff, the German police are currently devising related strategies at the regional and national level under the banner “Overcoming the digital transformation” (*Bewältigung des digitalen Wandels*). However, he concedes that this process is still in its preliminary stage.

A survey carried out as part of the COMPOSITE project found that police forces in Europe follow very different strategies with regard to social media – from self-publicity to monitoring social networks and involving the public in specific investigations. Macedonian and Romanian police use YouTube and Facebook only to distribute information about various campaigns and activities. In the United Kingdom, police sometimes inform communities about their daily activities via Twitter. The most comprehensive use occurs in the Netherlands, where police use their website to exchange work experiences with each other. Citizens can subscribe to so-called security updates about their neighbourhood through instant messaging. Through Twitter, the police try to increase their circle of informants or witnesses, and citizens are encouraged to send in tips via SMS alerts. The *Burgernet* (Citizen’s Net) website, for example, transmits information on the search for missing people, suspects or stolen vehicles via mobile phone. A pilot project is currently testing Skype for similar purposes. Citizens can even contact police avatars in social networks such as Habbo Hotel and Second Life.

Transnational cooperation between police stations located in the German-Belgian-Dutch border region takes place via a common intranet. Police can access information on location, which was previously only accessible at the police station, and police cars have been specially equipped for that purpose. Brandenburg police will soon also be equipped with police cars with the relevant technical functionalities. The use of this technology is intended to reduce the number of police officers

and stations needed in rural areas.

## Social networks as data suppliers

Interest in using social media services is increasing globally. The USA is contemplating using social media for emergency and disaster communications or to identify societal trends. [2] Research has shown that Twitter can facilitate terrorist activity as well as discouraging potential terrorists. Based on the evaluation of civilian reactions to the terrorist attacks in Jakarta and Mumbai, researchers developed a framework within which to evaluate civic reactions in a structured manner. This is intended to enable authorities and other decision-makers to react swiftly to terrorist threats. [3]

According to the COMPOSITE study, police solutions providers anticipate that the demand for techniques to monitor social media will increase, because criminals are using it to coordinate activities. Data published by users, such as photographs, are also useful for the identification of offenders as well as victims. Social media, the study says, is not only a police communications tool but also an investigative one. Characteristics of these new investigative systems are searches in social networks as well as connecting previously separate data sets, such as social network data, information posted on websites and police databases. Online police investigations should, however, “be protected from being made public.” Detailed information is kept confidential in the preliminary study, which will result in the monitoring of trends in four years’ time.

## Surveillance and investigation operations

Until recently, the fact that social media data is being used by the police had only been uncovered in the USA. The US civil rights organisation Electronic Frontier Foundation (EFF) responded by submitting a complaint against the CIA and the Defence and Justice Departments, amongst others, under the Freedom of Information Act (FOIA), for the disclosure of information on their use of social-networking websites as investigative, surveillance, and data collection tools. In its complaint, the EFF writes that “Although the Federal Government clearly uses social-networking websites to collect information, often for laudable reasons, it has not clarified the scope of its use of social-networking websites or disclosed what restrictions and oversight is in place to prevent abuse.”

During the court case, the EFF lodged several applications on the basis of the FOIA to find out more about the authorities’ use of social-networking media. A number of documents have been disclosed. Among other things, they showed that the authorities are contemplating using research into social networks for security checks on employees. A related preliminary study found that in more than half of the cases researched, relevant information could be found in publicly available social network profiles. [4] Drug Enforcement Administration (DEA) presentation slides showed that online tools such as MySpace or YouTube visualisers [document cameras] are already being used to depict visual connections between users. The DEA was able to locate a refugee by analysing his profile, or rather, through his contacts identified through social network media.

MySpace Private Picture Viewer, which can be used to collect private information because of a security leak, was also used by the authorities, thereby violating MySpace user policy. The FBI's *Intelligence Information Report Handbook* discloses that undercover accounts are also used to access protected information. Another CIA document acquired through the FOIA describes how "electronic footprints" can be avoided by using "anonymous accounts of an internet service provider" for surveillance activities.

Other documents the EFF obtained show that the CIA systematically evaluates online information in a so-called Open Source Center, not only using radio and TV programmes as sources, but also blogs, chat rooms and social network sites. The FBI on the other hand is interested in the University of Arizona's Dark Web Project, which systematically collects and analyses all web content generated by terrorists. Via spider networks, online fora are being searched to gain access to hidden websites. The researchers are using a tool called Writeprint, which claims to be able to identify authors of anonymous content.

The US Department of Justice recently caused a stir when it tried to access Twitter users' personal data, in connection to Wikileaks, with a judge's order. Twitter, however, informed the users and thereby gave them the opportunity to challenge the decision. Meanwhile, the EFF obtained, again via FOI applications, guidelines on how to deal with prosecutors' requests from 13 social media service providers, which the group has evaluated in a table. [5] Facebook proved to be the only provider that explicitly claimed the right to delete false accounts even if they were created by criminal prosecutors.

### Reconstructing networks from communication data

What information can data from social networks disclose? Since 11 September 2011 several scientific studies have attempted to identify abnormal behavioural patterns, [6] predict the interests of certain groups, [7] identify trends, [8] and evaluate mobility patterns [9]. The establishment of online services for social networks led to an increasing number of relevant data sets being generated. Blogs, for example, connect with other blogs and generate insights into social networks through link structures and content. [10] Facebook alone, with more than 600 million users, generates masses of communications data. New tools therefore have to be developed if these large data sets are to be analysed.

These networks can be analysed with relative ease using a number of criteria thanks to the infrastructure offered by providers [ISP's]. This is not the case with social networks that are created for criminal activities such as the drugs trade, money laundering or terrorism. As a rule, they operate underground, but just like legal social networks they serve communication, collaboration and coordination purposes. [11] There are attempts, such as the above-mentioned Dark Web Project, to identify networks through web links, or to identify important hubs in terrorist networks via Google's page rank algorithm. [12]

The representation of these relationships through telecommunications traffic data can almost be called traditional. As a rule, every communication through internet and telephone generates traffic data that can be analysed. On the basis of this data, strong and weak links between individuals can be identified, as a study by researchers at the Massachusetts Institute of Technology and Harvard University confirmed. [13] The study conducted interviews and undertook an analysis of mobile phone and Bluetooth communication traffic data for a group of 94 people. This showed that traffic data was most useful for identifying social networks: 96 per cent of personal friendships were identifiable through communication traffic data. Researchers were also successful in answering, for example, the question of how satisfied individuals were in their work. The time invested in the collection of data for the study amounted to 330,000 hours (using traffic data analysis), which

translates to 38 years if the data had been collected using traditional field study techniques. The evaluation of traffic data is not only economically efficient, but also accurate. In comparison to methods such as witness interrogation, it also enables the surveillance of large groups of people.

For sufficiently accurate results not everyone in the target group needs to be put under surveillance. A study at the university of Leuven and Rotterdam explored the question of how many individuals needed to be put under surveillance in order to indirectly capture a larger group through the chosen individuals' third-party contacts. [14] For this, the scientists looked at the e-mails of around 2,300 people that were sent and received over a time span of three years. For an exhaustive disclosure of network relations, the surveillance of eight per cent of the group was sufficient. A large group of people could be 'captured' through a small target group.

The French interior ministry and the development laboratory of the French telecommunication multinational corporation Alcatel (Alcatel Lucent Bell Labs France) recently showed in a common study that communications data reveal social networks, but that they can also be used to detect "suspicious behaviour" with the help of network analysis.[15] To achieve this goal, the researchers developed a tool that enables criminal investigators to access data and filter it according to specific criteria with the help of an interface that presents the data visually as networks.

A 2008 study, commissioned by the German Federal Ministry of Justice and the Max-Planck-Institute for Foreign and International Criminal Law, discusses "environments that are increasingly shaped by the networked, direct and intelligent evaluation of continually generated personal data." Traffic data, according to this study, inherently carries a high potential for social control and surveillance: "More than other data, they are useful for detecting social networks, identifying relationships and generat[ing] information on individuals." [16]

### Conclusion

Over the course of the last decade, network analysis has become an important investigation method for criminal prosecutors. The masses of data retained by social media service providers forms a rich reservoir that can seduce prosecutors into legal grey areas in their investigations. At the same time, new methods of analysis are more efficient than traditional investigation forms – in particular because they enable the linking of personal data from social media services with data from a diverse set of other sources: the internet, traffic data and various databases the police have access to. For police (and security) forces, these new methods offer the promise of reconstructing hidden social networks.

A different question altogether is whether identified relationships or connections between data sets give a realistic picture. Considering the fact that the research area is relatively young, it can be assumed that there is a high risk of unrelated persons becoming the target of an investigation and of suspicious cases against them being constructed, which, on closer scrutiny, turn out to be false. A critical and cautious handling of these powerful investigation tools is therefore advisable. An evaluation of the above preliminary research, examining these concerns in more detail, is lacking.

\* This article first appeared in *Bürgerrechte & Polizei/CILIP* 98 (1/2011)

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## The Arab Spring and the death toll in the Mediterranean: the true face of Fortress Europe

by Marie Martin

**Throughout the uprisings in North Africa, the EU has maintained a discourse of double standards: supporting calls for freedom and democracy but greeting resulting population displacement with hostility. This has contributed to a record number of people dying at Europe's borders during the first seven months of 2011.**

It is all about numbers when it comes to migration; about how large a flow came in, how many people asked for protection and how many applicants were “failed” or “rejected.” Numbers quantify the “threat” (e.g. the “invasion” of irregular migrants) and serve as a bargaining tool with third countries (allowing the acceptance of the externalisation of border controls in exchange for facilitating the mobility of a specific number of nationals). Numbers demonstrate whether the target of “x” thousands of annual deportations of irregular migrants is met.

Numbers released by public authorities are meant to justify the need for migration policies and to show how efficiently they are implemented. Yet hidden numbers question the legitimacy of these policies - the death toll of people dying at Europe's borders is such an example. For several years, Gabriele del Grande has monitored the situation at the EU's external borders and kept a record of the number of deaths occurring in the context of irregular border-crossings [2] on the *Fortress Europe* website. According to the website's latest update, the EU's borders have never been so “murderous” [3]: there were 1,931 deaths during the first seven months of 2011. [4] In 2008, a petition was brought before the European Parliament by the ProAsyl organisation, denouncing the “deathtrap at the EU's borders” [5]: it was a particularly “murderous” year, with 1,500 deaths. It is terrifying to realise that this toll was exceeded in the first seven

months of 2011.

These figures were disclosed at the very moment thousands of people were fleeing war zones and political turmoil in North Africa. The armed conflict in Libya differs widely from the “revolutions” in Tunisia and Egypt. These Arab springs were not perceived in the same way by Western countries, and especially not by the EU. However, some similarities are apparent, particularly regarding the denial of hospitality to those displaced by the crises which erupted in the region. While the EU's hypocritical reaction to the events came as no surprise [6], the complete lack of assistance to displaced populations reaching its shores clearly reveals the nature of EU migration and border management policy.

### The crisis in Northern Africa

Since the beginning of the “uprisings” in different Arab countries the EU has maintained a discourse of double standards, praising the call for freedom and democracy while pointing out that the events resulted in a “significant movement of people.” [7] The EU has thus been prompt in sending humanitarian support, as has been reported in its various communications. However, in line with its externalisation strategy (in the management of migration flows), it has ensured that it minimised the impact of the

population displacement by sending humanitarian and operational support to North African countries. Reception schemes and solidarity mechanisms in the EU are scarce. As of May 2011, only “300 relocation places for Malta ha[d] been pledged, and over 700 resettlement places for refugees stranded in North Africa” according to the EU Commissioner for EU External Relations. [8] By September 2011, “eight EU Member States have agreed to consider 374 cases submitted by the UNHCR. Of this number so far, seven Member States have accepted 303 refugees for resettlement; 155 have already departed: 25 to Belgium, 130 to Sweden” as indicated by Commissioner Cecilia Malström, who observed that “this is good but is clearly not enough.” [9] However, few figures have been made available, although it is known that 25 people from DR Congo and Eritrea arrived from the Choucha camp in Tunisia and were resettled in Belgium in July. [10] Overall, the EU’s containment strategy has been successful. With regard to the crisis in Libya, the total number of displaced people “received” in Europe represents only 2% of those fleeing the country. Meanwhile, camps at the Libyan-Tunisian border are overcrowded, resulting in shortages of food and drinking water and growing tensions between the different communities in the camps. [11]

Western countries and international organisations/NGOs contributed to support the humanitarian effort after the Libya conflict began. Important financial support was granted to the International Organisation of Migration (US \$67 million in funds, pledges and in-kind) [12] for the evacuation and relocation of displaced people, and their repatriation when possible (for the management of the crisis outside European territory).

### **The hypocrisy of European authorities**

The support deployed in response to the crisis in Libya followed the adoption of a UN Council resolution which legitimated intervention during the conflict. Other expressions of the Arab spring received no such support. The obvious discrepancy between European support for the Jasmine revolution and the way Tunisians were treated as irregular - especially in France and Italy - has been widely reported and denounced as emblematic of the EU’s real agenda.

The EU may be “wholeheartedly behind the Tunisian people’s aspirations for freedom and democracy” [13], but Member States’ reaction to the arrival of Tunisian nationals was not welcoming, to say the least. It may be wondered if, sooner or later, this “push back” strategy [14] will find official justification in the need for Tunisians to stay in their country and contribute to its democratic transition (a well-known discourse when denial of entry visas are presented as a measure to counter the “brain drain”).

This strategy goes further, with European states protecting or promoting their own economic interests. It is striking to note that, unlike the media’s enthusiasm for reporting on events in Tunisia, Egypt or Libya, events in Morocco received far less coverage, despite similar protests demanding deep political reform and social justice since February 2011. [15] Morocco is an important economic partner for the European Union, doing so well that it is the only country from the region to have attained “advanced status” in its partnership with the Union (Morocco was the first recipient of EU funds through the EU Neighbourhood Policy.) [16] EU authorities [17] also turned a deaf ear to the Algerian authorities’ violent response to demonstrations, which received little media coverage. However, progress has been made towards the EU-Algeria association agreement, with the process now classified as “considerably advanced.” [18] It would not be surprising to find that the EU’s diplomatic and political agenda is closely tied to its economic interests. The rejuvenated arms trade between some European

countries and Libya, in which arms companies took advantage of the new operation to arm civilians, should not be overlooked. Gaddafi also uses European-made weapons, as is attested to by EU and national parliamentary reports. [19]

### **Who are the “huddled masses yearning to breathe free?” [20]**

A close look at the motives driving irregular crossings reveals the double standards underpinning the EU’s response. Are these irregular migrants taking advantage of the current chaos to enter Europe for work? Are most of them “merely” economic migrants rather than genuinely oppressed asylum seekers?

A large proportion of these displaced people fit the category of economic migrants: for example, sub-Saharan migrant workers escaping Libya or Egypt or jobless Tunisians. Some people currently arriving irregularly on EU shores may have decided to come to Europe anyway, irrespective of North Africa being in turmoil. In this case, the possibility that facilitating regular mobility for economic migrants, or using tourist visas, might help curb irregular migration may be worth considering. But if we are honest, the migrants trying to reach Europe for the past six months are, in large part, escaping violence and instability throughout the region. More attention should be paid to the push factors (escaping) than the pull factors (economic opportunities, for example.)

Some of the violence is the result of the EU’s action, or inaction. Supporting Libyan rebels by supplying their weaponry [21] overshadows reports of migrant workers as the victims of rebel violence. Whether they are mistaken for Gaddafi’s militiamen or simply mistreated as foreigners [22] - they are probably seen as no more than collateral damage. On the other hand, Gaddafi has used migrants as pawns to pressurise the EU into staying off the battlefield [23]. It is war and people try to save their lives and escape chaos.

For those who missed the IOM humanitarian convoys, it was too late to be accepted as a legitimate refugee. This left no choice for migrants in Libya but to take their chances and cross irregularly. As mentioned above, relocation schemes did not reach European shores. This was not necessarily a problem because most did not intend to go to Europe (otherwise there would have been more than the aforementioned 2% arriving in Europe.)

A few months after the Arab spring, short term displacement situations have become unbearable and are likely to get worse. Some migrants are hostage to the armed conflict [24]. Those people living in camps who do not want to ask for international protection are likely to remain in limbo until the situation calms, allowing them to return to the country in which they were working. Meanwhile, the long-term logic of denying entry to regular migrants who come from non-European countries continues. However, it is understandable that many people, especially young workers, are unsure about the outcome of the revolutions and may be willing to migrate to Europe, at least temporarily. Indeed, the deep social and economic concerns of African and North African countries have not disappeared and it is unlikely that trade agreements will improve massively for the locals on the other side of the Mediterranean. The reasons the “*harragas*” [25] undertake their perilous journeys are linked to the current political turmoil in the southern Mediterranean.

Instead of tackling the implications of the situation, the European authorities, and especially the Member States, do not meaningfully consider the “pull” factors and their role. This results in a caricatured discourse which fuels fantasies of “bogus asylum seekers” and “illegal migration” to serve the interests of governments wanting to justify more stringent migration policies. The Commission’s *Communication on Migration*, which was released in May as a response to the Arab spring, states:

*Thousands of people have recently sought to come to the EU, putting the protection and reception systems of some of our Member States under increasing strain. More than 20,000 migrants, mainly from Tunisia and, to a lesser extent from other African countries, have managed to enter the Union irregularly, reaching the shores of Italy (most to the island of Lampedusa) and Malta, both of which are under strong migratory pressure. Most of these are economic migrants and should be returned to their countries of origin.[26]*

As regards Libya, the UNHCR has been quite clear in demanding that “all people leaving Libya should be granted access to territory without discrimination, irrespective of their background” and that “Libyan nationals be granted temporary protection pending firm clarification of their circumstances and arrangement of possible solutions.” [27] Calls by NGOs urging that the principle of non-refoulement be adhered to have abounded [28].

The response of EU Member States to such demands is predictable: the UK, for instance, is developing specific residence schemes for Libyans, creating a separate legal framework with the intention of limiting the number of asylum applications [29]. Italy has reached an agreement with the newly recognised Libyan National Transitional Council (NTC) to counter “illegal migration.” [30] The EU itself is getting ready to “face the continuous and possible increase of inflows of irregular migrants coming from the Southern Mediterranean.” It will reinforce Frontex’s operation HERMES and the dynamic of working arrangements with third countries in the Mediterranean, especially Tunisia, with the setting-up of an EU-Tunisia operational project [31]. Questions must be asked as to whether peoples’ rights are at heart of the EU’s migration policy [32].

Italy’s response has been particularly telling. Many migrants arrived in Italy, which the government addressed through the temporary opening of reception centres: CIEs (identification and expulsion centres) and CARAs (reception centres for asylum seekers.) On 5 April 2011, a prime ministerial decree laid out temporary protection measures by issuing a six-month “residence permit for humanitarian reasons.” This scheme was open to nationals of north African countries who arrived between 1 January and 5 April 2011 (mainly Tunisians), in possession of travel documents (i.e. who could be returned to their country of origin at some point) and who were not excluded by other circumstances (e.g. persons having been previously issued with an expulsion order which was still in force.)

This situation reveals the limits of the humanitarian scheme. Because it was limited in time and scope, those who were not ready to return to “post-revolutionary” Tunisia had little choice but to lodge an asylum claim. The same “time saving” strategy has often been adopted by those who would not benefit from temporary humanitarian protection. In all cases, the claims are likely to be rejected, although the reasons for not returning may be real. If they are “bogus” asylum-seekers, perhaps it is because no appropriate political solution has been provided. No schemes have been established for those who wish to stay, whether through the extension of their humanitarian protection visa or through the possibility of applying for another type of migration visa.

Moreover, doubts must be cast on the relevance of some of the exclusionary clauses. A person who was expelled from Italy many months before, and may be banned from the country for a period of up to five years [33], may still need protection after reaching the Italian coast. A genuine need to escape is thus closed off based on an unrelated previous situation. This problem is not specific to Italy. The EC Returns Directive foresees a maximum entry ban of five years in all Member States for those who do not comply with a return order and are forcibly removed. No matter what may happen to them over the next five years, their ability to seek protection in Europe will be seriously hampered.

Italy could not deal with this crisis on its own and it should be recognised that the Italian government, contrary to France for example, at least granted temporary humanitarian protection. The Temporary Protection directive, which foresees a one year renewable residence permit, was not considered although the context may have justified its use:

*As for the joint EU resettlement programme, there is disagreement over the procedure” and the Commission expressed its disappointment that the proposal had not gained the support of member States. It seems that the Commission’s margin for action remains very “limited” when it comes to abiding by its own human rights principles, because it is up to Member States “to live up to their promises and their nice words about solidarity.[34]*

The absence of a concerted approach at the EU level not only endangered the safety of people fleeing turmoil, but was also against the “spirit of Schengen” (the freedom of movement and harmonised policies). While the Italian government had to deal with numerous arrivals, it was soon very clear that migrants from North Africa would not be welcome in Italy or in any other Member State. There was a clear discrepancy between the EU, which was speaking as a single body on democracy in North Africa, and the multiplicity of voices of different Member States when it came to the reception of people escaping North Africa. The lack of a reception strategy led to a unilateral management of arrivals, mainly through the re-establishment of partial border controls at the EU’s internal borders (in France and Denmark), as a reaction to the provocative decision to allow six-month residence permit holders to move freely in the Schengen area (Italy used this tool to express its disagreement with the lack of solidarity by EU Member States in hosting displaced people).

The absence of an EU-wide response to these arrivals resulted in a “Ping-Pong” policy between Malta, France and Italy, to mention the main countries, with irregular migrants paying the price. [35] The political vacuum literally “created” stranded migrants, on EU territory and at sea [36]. Cecilia Malström, the EU Home Affairs Commissioner suggests that Italy and France may have “breached the Schengen spirit” [37] by imposing controls on Tunisian immigrants and denying them leave to remain.

### **Between a hostile Europe and hostilities in the southern Mediterranean**

When promoting its strategy on migration in May 2011, the European Commission emphasised that EU border management would be “credible” only if it met two objectives:

- Ensuring protection for those in need, including “providing shelter” to people in need of international protection
  - Preventing irregular crossings by economic migrants [38]
- Leaving aside the fact that the evaluation of who is and who is not an economic migrant remains at the discretion of the EU Member States, it was barely understood that even economic migrants may be in need of temporary protection (as is the case of Sub-Saharan African migrants who fled Libya for example). Preventing irregular migration remains the top priority. It is placed above the development protection mechanisms among EU Member States, even when the need for the protection of people, whether they are regular or not, is obvious.

1,931 people died in the Mediterranean during the first seven months of 2011. European authorities and agencies can no longer turn a blind eye to these figures resulting in the use of a distorted humanitarian discourse. [39] They should be saving lives, deterring would-be migrants from embarking on insecure vessels and pursuing ruthless smugglers and traffickers (the difference between the two is rarely acknowledged) who exploit victimised migrants.

One may even wonder whether, at an EU level, hypocrisy is

not the institutional logic of a deeply anchored policy of denial. In May 2011, a motion for a resolution was brought forward at the European Parliament asking “who is responsible” for the lives lost in the Mediterranean. It questioned which vessels, and from which Member States or organisations, had upheld its obligation to rescue at sea. At no point was the EU’s responsibility pointed out or considered. It was as though the problem of people dying at sea was circumstantial. This is partly linked to an entrenched securitarianism.

Facing little choice other than to cross EU borders irregularly, many lose their lives en route or fall into irregularity once they are on the continent. They then remain stranded because the system deems them undesirable. The sad reality of the numbers shows that the danger may not lie in the reliance on smugglers but in the EU’s methods of border management.

## Footnotes

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## Reviews

**“A Big or Divided Society?” Final Recommendations and Report of the Panel Review in to the Coalition Government Policy on Travellers and Gypsies.** A.Ryder, S. Alexander, S. Cemlyn, P. Van Cleemput, M. Greenfields and D. Smith, *Travellers Aid Trust* 11 May 2011, pp. 102. A Panel of academics, lawyers and campaigners produced a report on the coalition government’s policy on Gypsies, Roma and Travellers. The report was funded by the Joseph Rowntree Charitable Trust. The report, is based on hearings which took place in parliament where Gypsies, Travellers, service providers, legal and academic experts gave evidence on the implications of proposed government policy. The hearings highlighted concerns including:

- The fact that the removal of central government obligations for developing Traveller sites would see construction come to a standstill;

- That local referenda could be used to block the construction of Traveller sites;

- That Gypsy, Roma and Traveller communities could be prevented from becoming part of the “Big Society” because of negative media coverage and the lack of constituted community groups;

- That key health and education services for Gypsies, Roma and Travellers were being threatened by the cuts.

The panel was made up of a number of key experts in the field and included Dr Jo Richardson (De Montfort University), Lord Avebury, David Joyce (Barrister), Professor Acton, Dr Andrew Ryder (Budapest (CUP) University), Sir Brian Briscoe (former chair, Task Group on Site Provision and Enforcement for Gypsies and Travellers), Dr Margaret Greenfields (Bucks New University), Dr Sarah Cemlyn (Bristol University) and Dr Patrice Van Cleemput (University of Sheffield).

Lord Avebury told Institute of Race Relations News (<http://www.irr.org.uk>): “Eric Pickles, the minister responsible for Gypsies and Travellers, has torn up the strategy that had been developed over the last six years of the previous government, riding roughshod over Liberal Democrat policy of keeping the target numbers of pitches. Now, it’s up to every local authority to decide how much land it will allocate for Gypsy sites and, inevitably, most of them will scale down the numbers or eliminate them altogether as in the case of London. At the same time they are encouraging local authorities to evict Gypsies from unauthorised sites at enormous cost in bailiffs and police. And the pupil premium, intended to help disadvantaged children, will leave out many Gypsy children who don’t attend school because their families have been evicted and they’re on the roadside.”

The current Dale Farm eviction of 400 travellers from Essex Green Belt land is the clearest illustration that Gypsies continue to face discrimination and hostility. Patrick Barkham [*The Guardian* 3.9.11] reports that the UN committee on the Elimination of Racial Discrimination (CERD) was joined in its censure by the Council of Europe’s commissioner for Human rights stating that there was a risk of a human rights violation if 86 families with 100 children were evicted. The UN Committee

called for a suspension of the eviction stating that “the planned eviction would disproportionality affect the lives of the Gypsy and Traveller families, particularly women, children and older people, and create hardship, until culturally appropriate accommodation is identified and provided.” TAT website: <http://www.travellersaidtrust.org/>

**Breaking the silence, European Roma Rights Centre & People In Need.** March 2011, pp90. The perception that Roma people are often involved in trafficking issues, whether as victims or traffickers, is widespread. Throughout the years, the issue has become increasingly politicised, with some European governments drawing a direct link between the migration of Roma and trafficking networks. This report by the European Roma Rights Centre (ERRC) and People In Need (PIN) aims at deconstructing this political discourse and misrepresentations. The aim is to give a realistic picture of how the Roma community is affected by trafficking issues and why. Linking Roma migration to trafficking does not make sense, not least because trafficking may happen within the country of origin (37% of interviewees in this study) and because 95% of the Roma community is reported to be sedentary. This in-depth analysis, covering EU countries with a large Roma community (Bulgaria, Czech Republic, Hungary, Romania and Slovakia) focuses on all types of trafficking: sexual or labour exploitation, domestic servitude, organ trafficking, illegal adoption and begging. It recalls that contrary to “the widely-held perception that trafficking is a cultural practice of Roma”, the issue is in fact linked with the vulnerability of that community in relation to social and economic issues, institutional and social discrimination, weaknesses in the legal framework and the lack of inclusive integration policies. In that sense, the ERRC finds that “this study did not establish any significant differences between generally known vulnerability factors and the vulnerability factors present in Romani communities”. Nonetheless, this comprehensive study highlights the particular vulnerability of this minority, which is over-represented among victims of trafficking, due to a combination of factors, especially the lack of adequate preventative and protective mechanisms. The ERRC reports in a constructive way, reflecting not only on the discriminatory political agenda which deeply affects Roma (fingerprinting in Italy, forced removals from France and Denmark despite being EU citizens), but also on NGO practices which may be too weak in addressing trafficking as a specific issue, and family complacency which in some cases is a reality in trafficking cases. The ERRC concludes its report with a set of recommendations to European and national authorities as well as non-governmental actors, asking for more cooperation and trust between stakeholders and strong political action to tackle not only trafficking as such, but also the deep roots of Roma’s vulnerability in Europe. The report is available at: <http://www.errc.org/cms/upload/file/breaking-the-silence-19-march-2011.pdf>

**The Migration Debate**, Sarah Spencer. *The Policy Press*, 2011, pp. 280 (ISBN 978-1-84742-285-9). Migration has become an unavoidable part of public and media discourse, more often than not leading to passionate debate. This book is an attempt to “detoxify migration” and to facilitate a “more reasoned” focus on a field “so evidently lacking” consensus. By looking at UK migration policy over the long term, (i.e. mainly the post-war era), Spencer provides a useful description of migration flows over the past decades and how they have been addressed at a political level. This broad analysis, a snapshot of the different categories used to approach migration (family migration; economic prospects; students; asylum seekers and refugees; irregular migrants; integration policies), gives interesting insights into policy-making processes. How are we to understand the “paradox” that politicians promote tighter controls but people still arrive? Spencer gives two answers: first, the “political hyper activism” over migration is not simply about what politicians want to do, but what they can do. It is about a set of constraints which shape the understanding of migration (e.g. historical links

with certain countries), but may also limit governments’ actions: the media, court decisions, legal obligations, economic rationale, the right to family and private life, freedom of circulation for EU citizens etc. The second element is the absence of a systematic understanding of migration: policies may sometimes lack efficiency precisely because the categories in which migrants are meant to fit are not giving a realistic picture of the wider motives which brought them to the UK (an “economic migrant” can have family-related motives to be or stay in the country; a student may also need to be a worker etc.). Likewise, migration should not be understood as a policy domain completely detached from other fields (e.g. the exploitative logic which many migrants may be the victim of is closely linked with “poor working conditions in the labour market”). The aim of the book is not about controversy but about policy-making and balance. In this sense, Spencer manages to sum up the reality of migration in the UK clearly, making this book an important contribution towards a more constructive approach to the “migration debate” in the UK.

## New material and sources

### Europe

**Criminal Network**, Gary Mason. *Police Product Review*, June/July 2011, pp. 21-22. While Europol has just entered its new headquarters in The Hague (Netherlands) and has the ambition to better address contemporary challenges, Mason looks at the functioning of the European law enforcement agency. Co-ordination between the 27 national law enforcement systems is not easy. Globalisation has opened new possibilities for criminal networks to “cover their tracks” through multiple identities or act under cover in different countries (e.g. shadow companies). Since its inception in 1995, Europol has developed two software systems where national data are pulled together to facilitate cooperation, in a more cost-effective way. The first database, the Information Exchange System (Info Ex) brings together information meant to be exchanged between EU Member States, Europol and third parties for the purpose of research and analysis of trans-national crime. The second, the Information System (IS) helps detect “hits” on different national records to facilitate cooperation for crime-related investigations especially the secure transmission of sensitive information. Indeed, Europol has a clear mandate framing its capacity to collect, process and exchange data and acts “as a fusion centre for intelligence” in the EU. In the UK, it is the Serious Organised Crime Agency (which will soon be incorporated into the forthcoming National Crime Agency) which acts as the Europol National Unit. See Chris Jones “All-seeing, all-knowing: the proposal for a National Crime Agency in the UK”, July 2011, available at <http://www.statewatch.org/news/2011/jun/uk-nca.htm>

### Immigration and asylum

**Brides and Prejudice**, Humas Quareshi. *The Guardian* 13.5.11. The UK’s Conservative education minister, Michael Gove, has argued that schools need to “celebrate the distinguished role of these islands in the history of the world” and portray Britain as “a beacon of liberty for others to emulate.” Presumably, this chauvinistic approach would omit the horrors of British history, one small example of which is the topic of this article – the largely forgotten 1970s policy of “virginity testing” Indian and Pakistani women arriving in the UK at Heathrow airport. This policy was not defeated through the rewriting of history, but by black communities coming out on the streets, picketing the airports and defying the authorities stereotyping of south Asian women as “submissive, meek and tradition bound.” The historical lessons of black communities’ fight against institutionalised state racism in the UK is as relevant today as it was in the 1970s.

### Law

**Sound off for Justice**. *JUSTICE*. This is the website for JUSTICE’s campaign calling for the defence of access for all to the justice system.

The Legal Aid, Sentencing and Punishment of Offenders Bill will put into law the coalition government’s cuts to access to justice and force through changes which will mean hundreds of thousands of people will no longer be able to use the courts to assert their legal rights. Visit the website at: <http://soundoffforjustice.org/>

**Student in al-Qaida raid paid £20,000 by police**, Sam Jones. *The Guardian* 15.9.11. Update on Rizwan Sabir, the student who was arrested for downloading a copy of an al-Qaeda training manual (which was readily available on the CIA’s website and can be bought at WH Smiths) as part of his research into terrorism at the University of Nottingham. Rizwan was detained under the Prevention of Terrorism Act in 2008 and charged with downloading the material for illegal use. After spending a week in custody his legal team brought proceedings against Nottinghamshire police for false imprisonment and breaches of the Race Relations Act and the Data Protection Act. A week before the case was due to come before the court, the police force settled, paying Sabir £20,000 compensation. Michael Oswald of Bhatt Murphy said that the police must “act within the law and must be held to account when they are not.”

### Civil liberties

**Getting Away with Torture: the Bush administration and mistreatment of detainees**. *Human Rights Watch* 2011, pp. 103 (ISBN: 1-56432-789-2). In 2005, HRW published *Getting Away with Torture?* which presented substantial evidence for criminal investigations of then-Defense Secretary Donald Rumsfeld and CIA Director George Tenet, as well as Lt. Gen. Ricardo Sanchez (formerly the top US commander in Iraq) and General Geoffrey Miller (former commander of the US military detention facility at Guantanamo Bay, Cuba). This follow-up report summarises new public information about the role played by US government officials according to US and international law. “Based on this evidence, Human Rights Watch believes there is sufficient basis for the US government to order a broad criminal investigation into alleged crimes committed in connection with the torture and ill treatment of detainees, the CIA secret detention program, and the rendition of detainees to torture. Such an investigation would necessarily focus on alleged criminal conduct by the following four senior officials—former President George W. Bush, Vice President Dick Cheney, Defense Secretary Donald Rumsfeld, and CIA Director George Tenet.” Available as a free download at: <http://www.hrw.org/en/reports/2011/07/12/getting-away-torture>

**Report of the Secretary-General’s Panel of Inquiry on the 31 May 2010 Flotilla Incident**, Sir Geoffrey Palmer. *United Nations* 2011, pp. 105. This UN report into the Israeli Defence Force (IDF) attack on the humanitarian flotilla to Gaza in May 2010 has been widely dismissed

as a “whitewash”. During their assault on the flotilla, IDF commandos raided the *Mavi Marmara*, killing eight Turkish citizens and a Turkish-American and seriously injuring numerous other civilians. The UN panel, including among its number the former Columbian president, Alvaro Uribe reached the conclusion that the IDF killings amounted to no more than “excessive force”. They also maintain that the Israeli military blockade of Gaza is a “legitimate security measure.” The panel’s criticism of the IDF’s extra-judicial killing of civilians is limited to requesting a “satisfactory explanation”: forensic evidence has shown that most of the victims had been shot multiple times in the back or from close range. The report says: “There was significant mistreatment of passengers by Israeli authorities after the take-over of the vessels had been completed through until their deportation. This included physical mistreatment, harassment and intimidation, unjustified confiscation of belongings and the denial of timely consular assistance.” Since the *Mavi Marmara* massacre, the Turkish government has demanded that Israel issue an official apology. Israel has refused.

[http://www.un.org/News/dh/infocus/middle\\_east/Gaza\\_Flotilla\\_Panel\\_Report.pdf](http://www.un.org/News/dh/infocus/middle_east/Gaza_Flotilla_Panel_Report.pdf)

## Policing

**The Spotlight is back on black deaths at the hands of police**, Harmit Athwal. *Institute of Race Relations website*, 2011. This article discusses the fate of Marc Duggan, who was shot dead by CO-19 police officers on 4 August in Tottenham, and the police disrespect shown to his family, which resulted in local riots that spread across the country. Athwal’s piece juxtaposes the multiple layers of self-serving police misinformation leaked to the media with the unanswered questions concerning the circumstances of Duggan’s death asked by his family. Upset at this absence of information, Duggan’s family held a protest outside Tottenham police station, demanding to speak with a senior police officer – they were ignored. Once they left the police allegedly struck a young woman who joined the protest. Athwal, who monitors black deaths in custody for the IRR, demonstrates that the police response to the Duggan family is typical of many other deaths over a period of 40 years, as the death of another African-Caribbean Tottenham resident, Roger Sylvester, in 1999 demonstrates. Police attempts to manipulate the media by demonising the deceased has also become a standard tactic; just as Jean Charles de Menezes was described as a “terrorist”, Mark Duggan was a “gangster” or even a “crack dealer” according to the right-wing newspapers. Perhaps even more damning than police “spin” is the impunity with which police officers are permitted to act: there has only been one successful prosecution of police officers for their involvement in the death of a black person – in 1971. Available at:

<http://www.irr.org.uk/2011/august/ha000019.html>

**Police establish new regional bugging units**, Ryan Gallagher and Rajeev Syal. *The Guardian* 26.7.11. Short article on the establishment of police regional surveillance units, formed with the planned demise of the Serious Organised Crime Agency. This development has provoked fears of an increase in covert police operations and concern at how the new regional groups will be monitored. The article reveals that in early July five police forces, Derbyshire, Leicestershire, Lincolnshire, Northamptonshire and Nottinghamshire formed the £2m a year East Midlands Technical Surveillance Unit (Emtsu) to improve access to surveillance and the planting of bugs.

**Police dum-dum bullets safer for public, says Met**, Rob Parsons and Justin Davenport. *The Standard* 12.5.11. This piece considers the Metropolitan police’s decision to issue hollow-point bullets as standard ammunition to its firearms officers. Police spokesmen have denied that this lethal ammunition is the same as a dum-dum bullet, by redefining the term to apply only to ammunition used by criminals, and justifies this proliferation by explaining that its use will be safer for members of the public. The move has been condemned by the Justice4Jean campaign, which represents the family of Jean Charles de Menezes, a passenger on the underground system who was killed by police who fired eight dum-dum bullets into his head when they mistook him for a “terrorist”. The Justice4Jean Campaign: <http://www.justice4jean.com>

**Campaigns challenge lethal force**, Helen Shaw. *Labour Briefing* September 2011, p. 9. Shaw, the co-director of INQUEST, places the

police killing of Mark Duggan in Tottenham on 4 August 2011, within the context of previous surveillance operations. Thirteen of the 30 people shot dead by the police in England and Wales since 2001 were shot by the Metropolitan police force, seven of whom were black. Shaw draws comparisons with the shooting of Azelle Rodney, who died in a similar “hard stop” interception in Edgware in 2005, and whose death is the subject of a public inquiry which is expected to open in 2012. She also highlights “the kind of misinformation [that] is fed to a willing media who report unsubstantiated comments from press officers with damaging consequences” and “the failure of the IPCC to understand the historical context” in which the fatal police shootings take place. Shaw concludes: “For Londoners to have confidence in the police, the investigation into Mark Duggan’s shooting and the public inquiry into the death of Azelle Rodney must both reveal the truth about the individual deaths and examine in detail the way in which the Metropolitan police use lethal force.” Inquest website: [www.inquest.org.uk](http://www.inquest.org.uk)

**Bird’s-eye Policing**, Hollie Clemence. *Police Review* 3.6.11, pp. 18-19. This piece discusses the launch of the National Police Air Service which will launch in April 2012 to provide “borderless coverage across England and Wales.”

## Racism and Fascism

**Breivik, the conspiracy theory and the Oslo massacre**, Liz Fekete. *European Race Audit Briefing Paper 5* (September) 2011, pp. 25. This analysis provides context and analysis to the Oslo massacre carried out by the far-right extremist, Anders Behring Breivik, which claimed the lives of 77 people in two attacks in Oslo and Utøya in July. Breivik argued, in his 1,500 page manifesto *2083: A European Declaration of Independence*, that by taking out the next generation of Labour Party leaders he would prevent the disintegration of Nordic culture by the mass immigration of Muslims, and kick start a revolution to counter the destruction of western civilisation. This paper deconstructs Muslim conspiracy theories peddled by the extreme-right, counter-jihadists and neo-nazi circles, drawing comparison with Jewish conspiracy theories. In addition to an examination of the sources that influenced Breivik the report contains appendices on “Responses to the Oslo massacre” and documentation of anti-Muslim provocation across Europe in 2010 and 2011: [http://www.irr.org.uk/pdf2/ERA\\_BriefingPaper5.pdf](http://www.irr.org.uk/pdf2/ERA_BriefingPaper5.pdf)

**Far-right Murder Rampage in Norway**, Tore Vik and ‘Cultural Conservative’ Terror in Norway: the background, Anne Jensen. *Searchlight* No. 434 (August) 2011, pp. 8-11. These articles provide background to the attacks on 22 July in Oslo Utøya carried out by 32-year old Norwegian Nazi, Anders Behring Breivik. The massacre, the most recent in a series of far-right criminal acts in Norway since the bombing of a left-wing bookshop in 1977, killed 77 people, some as young as 14 years of age. Breivik, who was formerly a member of anti-immigrant Progress Party (he left in 2007), had links to the Swedish Nazi website *Nordisk* and the Norwegian Defence League and was in contact with the nationalistic English Defence League. He was also influenced by Christian fundamentalist, Islamophobic and conservative thinking.

**The New Geographies of Racism: Plymouth**, Jon Burnett. *Institute of Race Relations* 2011. This briefing is the first of three investigations into three areas experiencing high levels of racist attacks. Hate crimes in Plymouth reported to police rose by 60% between 2004/5 and 2009/10. The overall research examines the pattern of migration and settlement and the changing geographical pattern of racial violence. It places incidents of racial violence in context of the role of state policies and action which sets a climate for popular racism and a context within which racist attacks take place, highlighting popular forms of racism such as anti-Muslim racism resulting from “the war on terror” and more local expressions of racism resulting in abuse, and brutality. This climate of racism has meant the far right is able to draw on, and make the most of these growing hostilities. The briefing draws on in depth interviews of a cross section of those working on anti-racism and race equality in Plymouth and victims of racial violence. It sets the background of racial violence in relation to recent demographic changes; economic developments; patterns of employment; poverty and deprivation and the historic context of racism and anti-racism. This

research aims to contribute to the debate and tactics to respond to new and emerging localities of racism. Available as a free download at: [http://www.irr.org.uk/pdf2/New\\_geographies\\_racism\\_Plymouth.pdf](http://www.irr.org.uk/pdf2/New_geographies_racism_Plymouth.pdf)

**BNP Bear Fight**, Dave Williams. *Searchlight* No. 434 (August) 2011, pp. 18-19. Update on the result of the British National Party's leadership election contested by current leader Nick Griffin and Andrew Brons, both party MEPs. There was little to choose between the two men, both having a long history of involvement in fascist politics (both are former chairs of the National Front.) Griffin eventually scraped home by nine votes (with 11 spoilt papers and 37 invalid), promising further disruption in the future.

**Number of violent neo-Nazis on the rise in Germany.** *Deutsche Welle* 18.4.11. A short article noting the decline in popularity of the nationalist political party the NPD, and the rise in support for the Autonomous Nationalists, one of the neo-Nazi groups who have adapted antifascist imagery and tactics to their own ideals. According to Germany's internal security service, during 2010 the number of 'violent neo-Nazis' grew by 600, to 5,600 people.

## Security

**How US firms turned CIA torture flights into profits**, Ian Cobain and Ben Quinn. *The Guardian* 1.9.11. Illuminating insight into the scale of the CIA's rendition programme, revealed after legal squabbles between the private companies that profited from the business opportunities provided by the US rendition programme. The court case in New York involves aircraft broker, Sportsflight, and operator Richmore. While victims of the US war on terror continue to languish in Guantanamo Bay without proper recourse to the law, the private companies that escorted them to black sites across the world to face the most horrendous physical and psychological abuse (and even extra-judicial execution) are suing one another over exactly how much money they are entitled to. As a result, many of the US companies involved in this human traffic have been exposed and, hopefully, can be brought to trial on behalf of their victims. Reprieve's Legal director, Cori Crider, said: "These documents reveal how the CIA's secret network of torture sites was able to operate unchecked for so many years. They also reveal what a farce it was that the CIA managed to get the prisoners' torture claims kicked out as secret, while all of the details of its sinister business were hiding in plain sight." Reprieve, which uses the law to enforce the human rights of prisoners, can be contacted at: <http://www.reprieve.org.uk/>

**Could double killing have been averted? Ex-spy shines light on Ulster's covert war**, Henry McDonald. *The Guardian* 12.9.11, p. 15. The spy in question is Ian Hurst, a former member of the notorious FRU (Force Research Unit), and the double killing is that of two top RUC police officers, Superintendent Bob Buchanan and Chief Superintendent Harry Breen, in March 1989. Hurst has handed his material to Ireland's Smithwick Tribunal, which is investigating collusion between paramilitaries and the security forces during the 1980s. Hurst's version of events suggests that the IRA had planned to abduct and interrogate the police officers and that state agents (infiltrators) "killed the two police officers in order to prevent them from being handed over to a Provisional interrogation unit." The Smithwick Tribunal website: <http://www.smithwicktribunal.ie/smithwick/HOMEPAGE.html>

## Military

**War crimes: from Bloody Sunday in Derry, Northern Ireland to Croatia, Kosovo and Iraq. The role of Sir Michael Jackson.** Professor Michael Chossudovsky. *Troops Out Movement website*, 2011. Almost 40 years after the Bloody Sunday massacre, and following the Saville Commission's report into it, Chossudovsky asks if "members of the First Battalion of the Parachute regiment [were] obeying orders from higher up?" It examines the structure of the regiment, looking at the roles of General Sir Robert Ford, Lieutenant Colonel Derek Wilford and especially the role of Captain Michael Jackson, which has "been obfuscated since the outset of the investigation in 1972." It concludes that both Wilford and Jackson were "rewarded rather than prosecuted for their role in the 1972 massacre", pointing at the latter's rise "to the highest rank of the British military, before retiring in 2006 from the rank of Commander of the general Staff." The article also considers Jackson's role in other theatres of ethnic warfare, "first in Bosnia and

Croatia and then in Kosovo." Available as free download on the TOM website at: <http://www.troopsoutmovement.com/latestnews.htm>

**MoD plans rise of the machines with drones in place of soldiers**, Nick Hopkins. *The Guardian* 27.9.11. This article considers the Ministry of Defence's attempts to develop "a new generation of surveillance systems that will automatically identify people regarded as high-value targets." The kind of equipment the defence experts are looking for includes: "automatic (assisted) target recognition" systems, specifically designed to identify people and vehicles from the air, or on the ground."

**The Predator Paradox**, Ken Macdonald. *The Guardian* 6.5.11. Macdonald, a chair of Reprieve and a Liberal Democrat peer, considers the killing of Osama bin Laden, noting that US President Obama vetoed a bombing raid because of the "risk that innocents would die in full view of the watching world". Obama is reported to have vetoed the bombing because, in Macdonald's words, "Predator drones, launched by technicians in California, were too crude a weapon because hearts and minds...matter almost as much as bombs." Macdonald draws attention to the fact that "these presidential scruples do not always translate into other areas of attack in that struggling part of the world." He also notes the phenomenal increase in drone strikes under the Obama administration: "In the four years between 2004 and 2007, there were just nine US drone strikes in north-west Pakistan, with around 25 deaths a year; in 2010 there were around 118, with estimates of up to 1,000 people killed." Reprieve website: <http://www.reprieve.org.uk/>

## Prisons

**Long Lartin unit for terror suspects criticised**, Dominic Casciani. *BBC News UK* 18.8.11. This article discusses the "prison within a prison" identified at Long Lartin by the Chief Inspector of Prisons, Nick Hardwick. The unit which holds seven men who are suspected – but never convicted in a court of law – of terrorism, pays too little attention to the suspects' isolation, leading the Inspector to state that there needs to be a better balance between security and humane care. Two men have been held for more than 11 years, while one British citizen, Babar Ahmad, has been held for seven years while contesting extradition to the USA. Hardwick said: "We have previously raised concerns about holding a small number of detainees, who already inhabit a kind of legal limbo, in a severely restricted environment for a potentially indefinite period. We were therefore concerned to find that the detainees were no longer able to mix with the wider prison population. These restrictions had apparently been made on security grounds, although the rationale appeared obscure as sentenced terrorist faced no such restriction in the main prison and not all detainees posed the same level of risk."

**Report on an announced inspection of HMP Ford, 29 November – 3 December 2010.** *HM Chief Inspector of Prisons* 2011, pp. 130. On New Year's Day 2011, a major disturbance at HMP Ford, West Sussex, which lasted for 22 hours, caused considerable damage. This report describes conditions in the prison a month before the disturbance took place, noting that the inspectors' had expressed "serious concerns" about the way it was being run. The inspectors had found more than 40% of inmates said drugs were easy to obtain and that alcohol-smuggling, highlighted after previous visits, remained a problem. The report also found the prison was failing to prepare inmates for life outside, leading a spokeswoman for the Prison Reform Trust to comment: "Today's report on Ford reveals a worrying lack of urgency to deal with problems of poor resettlement" The report is available as a free download at: [http://www.justice.gov.uk/inspectorates/hmi-prisons/docs/Ford\\_2010.pdf](http://www.justice.gov.uk/inspectorates/hmi-prisons/docs/Ford_2010.pdf)

**Twisted: the use of force on children in custody.** *The Howard League for Penal Reform*, 2011, pp. 6 (ISBN 978-1-905994). This briefing observes that there are more children in custody in England and Wales at any one time than in any other country in Western Europe and that physical force is routinely used on them – often with disastrous effect. It examines the sanctioned use of force on children in custody using

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- 3 **The Arab Spring of "Security made in Germany"** by Eric Töpfer. Investigative journalists have revealed a secret mission by the German Federal Police to train border guards in Saudi Arabia. The episode sheds light on the much broader engagement of the German security-industrial complex in arming authoritarian monarchies in the Gulf region.
- 8 **The EU's self-interested response to unrest in north Africa: the meaning of treaties and readmission agreements between Italy and north African states** by Yasha Maccanico. The Italian government and the EU are attempting to urgently re-establish readmission agreements with new regimes in Egypt, Tunisia and Libya with scant regard for the wellbeing of refugees and asylum seekers. A 'state of emergency' has been declared in Italy which has allowed the government to derogate from certain laws and fast-track the application process.
- 14 **Transparent social networks: Investigations into digital social interactions** by by Christiane Schulzki-Haddouti. Police forces across Europe are increasingly using social media as an investigative tool to detect criminal activity, a technique that is already commonplace in the USA. The accuracy of this burgeoning practice is unclear, with the risk that innocent people will become embroiled in police investigations.
- 16 **The Arab Spring and the death toll in the Mediterranean: the true face of Fortress Europe** by Marie Martin. Throughout the uprisings in North Africa, the EU has maintained a discourse of double standards: supporting calls for freedom and democracy but greeting resulting population displacement with hostility. This has contributed to a record number of people dying at Europe's borders during the first seven months of 2011.
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