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What is This?

'Crimmigrant' bodies and bona fide travelers: Surveillance, citizenship and global governance

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Abstract

The article explores the nature of surveillance and crime control as they enter the sphere of global governance. Taking the European Union (EU) as a point of departure, it examines the relationship between surveillance and sovereignty, and looks more broadly at the role that transnational surveillance and crime control play in constructing a particular type of globally divided polity. Transnational surveillance practices are increasingly addressing a public which is no longer defined exclusively as the citizenry of the nation state, nor are all European citizens entitled to the privileges of such citizenship. Through the notions of bona fide global citizens and 'crimmigrant' others the article details how the seeming universality of citizenship is punctuated by novel categories of globally included and excluded populations, thus revealing the inadequacy of the traditional liberal language of citizenship as the springboard for articulating a critical discourse of rights.

The fact that surveillance is increasingly taking on a transnational character may be no news to casual observers of the field. However, while the transnational, or even global, nature of surveillance networks is often understood as a given, far less attention has been paid to the process of transnationalization and the complex, and potentially unpredictable, outcomes this may produce. This article examines the nature of surveillance

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and crime control as they enter the sphere of global governance. Its empirical starting point is the rapidly evolving network of EU surveillance practices relating to borders and crime control, first and foremost, the current expansion of the Schengen Information System (SIS), the Eurodac database and the creation of a common Visa Information System (VIS). These systems are vital elements of the so-called European 'Area of Freedom, Security and Justice' and indispensable instruments in EU border controls and EU police cooperation. I also examine planned surveillance systems—or what might be termed 'surveillance fantasies'—such as the Eurosur system and the proposed Entry/Exit system.

The purpose of the article is not, first and foremost, to provide a detailed empirical account of the European surveillance networks as such, but rather to examine the implications of transnationalization for the nature of sovereignty, membership and social exclusion. At issue is not only the relationship between surveillance and sovereignty, but looking more broadly, how surveillance practices are related to citizenship and global privilege, and moreover, what role crime and security discourses play in this context. What is the role of crime and security in determining who belongs to the polity and what relevance do these developments have for criminological theory?

Cross-border surveillance networks are a vital element of emerging systems of transnational governance, forming the contours of a global polity, which is increasingly governed through the intertwining of crime control and migration control—also termed 'crimmigration control' (see also Stumpf, 2006). They embody the changing modes of risk thinking and social exclusion, and are inscribed with specific notions of otherness and suspicion, essentially related to citizenship and global privilege.

Borders, sovereignty and trans-national governance

The past two decades have seen a remarkably productive empirical and theoretical interest in borders from several academic fields (see, inter alia, Bigo and Guild, 2005; Salter and Zureik, 2005; Pickering and Weber, 2006; Brown, 2010). Rather than recounting the various findings of these studies I shall instead attend to one particular aspect of the border. Specifically, I am concerned with how border controls raise the question of who belongs to the polity; marking a line of distinction between what Agamben (1998) famously terms zoe (bare life) and bios (the biological life of the society). Borders are therefore, by their very nature, 'a tool of exclusion' which aim to 'demarcate a coherent inside from a chaotic outside' (Rajaram and Grundy-Warr, 2007: x). Moreover, they establish the limits of sovereignty and reveal sovereign attempts to impose control, or at least a semblance of it, over who is admitted to the polity.

Much of this article will, directly and indirectly, deal with the issue of sovereignty—a topic which has been somewhat neglected by recent criminological scholarship (although see Lea and Stenson, 2007; Bosworth, 2008; Aas, 2011a). This neglect is partly due to the great theoretical influence of Michel Foucault, and the scholarship inspired by his work, which has sought to emancipate the analysis of contemporary power from questions of juridical and political sovereignty. The analytical importance of sovereignty has in recent years been reintroduced to social theory and re-connected to biopolitics primarily by Agamben (1998, 2005) and his followers. In contrast to Foucault (2004),

who sees biopolitics as something distinctly modern, Agamben suggests that including biological life into sovereign ordering has long historic roots. What distinguishes the current situation is merely the intensity of the development. Although the two authors may at times seem to employ fundamentally different conceptions of (bio)power, which according to some critics brings them close to an 'impossible dialogue' (Ojakangas, 2005), the comparison will nevertheless be useful, later in the text, in helping us to tease out some lines of distinction between various forms of contemporary surveillance.

In what follows, I outline a number of technologies of mobility control which form the backbone of the EUs border governance. And although to some extent revealing the peculiarly European nature of transnationalization, they also evoke a more general relation between border surveillance and sovereignty. The 'surveillance assemblages' (Haggerty and Ericson, 2000) described in this article are essentially connected to globalization and the transformation of the nation state into what Sassen (2006) terms novel 'assemblages of territory, authority and rights'. On the one hand, this transformation is marked by the weakening of the Westphalian concept of sovereignty and a detachment of sovereignty from the state. According to Brown (2010: 25), the incredible financial, technical and political investment that western and a series of other countries direct to the build-up of walls and fortification of border security function theatrically, aiming to present an image of 'sovereign state power in the face of its undoing'.

However, in the EU context, the fortification of border surveillance is not simply a matter of states 'acting out' in the face of their own inability to turn back the tide of unwanted flows produced by the neo-liberal world order. Surveillance plays both a re-active and productive role. Through systems such as VIS, Eurodac, Schengen and Eurosur, surveillance becomes a central tool for intensifying the integration of the EU and building supranational structures in the field of justice and home affairs. Transnational surveillance systems, such as Eurosur, are therefore essential elements in building trans-national policing cooperation and new policing agencies, such as Frontex. These systems legitimate the pan-European integration project and the need for transnational gover-nance more generally. Moreover, surveillance is also increasingly entering the field of foreign policy and becoming an export, also evident in the plans for the Eurosur system and in the ambitions of the EU's Stockholm program. The objective is to build up surveil-lance resources of third world countries, particularly in Eastern Europe and Northern Africa, and enable them to take over some of the EU's surveillance labor.

Although officials may aspire to create an unbounded panopticon, a system which is transnational, integrated, harmonized and interoperable, we should be wary of premature optimism (or better, pessimism) in that regard. The history of most of the systems described in this article reveals how supranational surveillance objectives have been negotiated, rendered less efficient and even sabotaged by 'sovereignty games' played by individual nation states, EU institutions and their officials. The prolonged and difficult birth of the SIS II system, disagreements between the USA and the EU about the exchange of Passenger Name Records (PNR) and SWIFT data (Mitsilegas, 2009) and the acrimo-nious relations between Frontex and certain member states (Aas, 2011a), reveal the continued importance of national sovereignty in contemporary surveillance studies. Transnational surveillance systems are an expression of nation states' self-interest (and

thus also empowerment), or an imposition of power 'from above', in which case they are open to resistance and even sabotage.

My point here is not only to accentuate the general importance of sovereignty for surveillance studies, but more specifically, to focus on the mechanisms which make border surveillance not only a tool of (externally directed) exclusion, but also a device for *internal* community building, integration and governance. Borders are, as Etienne Balibar (2010: 316) reminds us, 'deeply rooted in collective identifications and the assumption of a common sense of belonging'. In the case of trans-national border surveillance these assumptions about collective identity—'us' and 'them'—reach into the global domain. It is precisely the concrete formation of this global 'mapping imaginary' (Balibar, 2010: 316) and the novel forms of defining community and exclusion which are the focus of this analysis.

Surveillance of mobility in Europe

EU border governance consists of a plethora of systems. Although space restrictions preclude a full overview, the following outline serves as a point of departure for further theoretical analysis (for a more detailed analysis see, inter alia, Mathiesen, 2004; Brouwer, 2008; Guild, 2009; Mitsilegas, 2009). The following databases form the main components of EU border goverance:

(a) *Schengen Information System (SIS 1+ / SIS II)*: The SIS is the largest operational database related to police, judicial cooperation and external border control in Europe. Participating states provide entries and alerts on wanted and missing persons, lost and stolen property and entry bans. All third country nationals entering the EU, whether under visa obligation or not, are checked systematically in the SIS. It applies to all EU countries with the exception of the United Kingdom and Ireland, but including Iceland, Norway and Switzerland. A second version of the system, SIS II, is in preparation. SIS II will have the ability to store new types of data, including biometric identifiers, and further integrate with new member states of the Union. The SIS II system will also be useable by a greater number of institutions (for example, by legal authorities, Europol and the security services) (see, inter alia, Mathiesen, 2004; Brouwer, 2008).

(a) *Eurodac*: The Eurodac database is a tool for facilitating the application of the Dublin Regulation on asylum matters, which registers and compares fingerprints of asylum seekers. Member states have agreed to collect fingerprints of each third-country national above 14 years of age who applies for asylum in their territory or who is apprehended when irregularly crossing their external border. They can also fingerprint aliens found illegally staying in their territory in order to check whether they have applied for asylum. The data are sent to a central unit, managed by the European Commission, which compares them with stored data in search for 'hits', when the new data match the stored data. Where hits reveal that an asylum seeker has already applied for asylum or that she/he entered the territory irregularly in another member state, the individual can, in accordance with the Dublin Regulation, be transferred to the state in question (see, for example, COM 2007 299 final).

(c) *Visa Information System (VIS)*: The legal basis for the VIS was established by a European Council decision in 2004 (2004/512/EC). The system is expected to become fully operational by 2012, although it is already being rolled out on a regional basis. Its main purpose is, on entry, to verify the authenticity of the visa and the identity of its holder. VIS is a Schengen instrument and is based on a centralized architecture. It consists of a central information system, the 'Central Visa Information System' (CS-VIS), and 'National Interfaces' (NI-VIS) in each member state that connect to the relevant central national authorities of the respective member states, and of a communication infrastructure between the Central Visa Information System and the National Interfaces. In addition to personal information on third country visa holders, VIS also collects biometric data—facial image and 10 fingerprints—and is estimated to become the world's largest biometric database, potentially holding 70 million records.

(d) *Automatic Border Crossings (ABC)*: The purpose of the system is to minimize border checks for EU citizens. The idea, proposed in the EU Commission's Border Package (COM 2008 69), is connected to the introduction of European biometric passports, which are already being issued by EU member states and should be possessed by all EU citizens by 2019. The system is expected to work on a 'no enrollment' principle and will contain two biometric identifiers—face and, with the second generation, also fingerprints—which the system can read and check against EU and national databases at automated border gates.

(e) *Registered Travelers System*: The Registered Travelers System was proposed in the same Border Package (COM 2008 69) as the Automated Border Crossings. The automated gates, mentioned above, are also expected to be used by certain groups of pre-enrolled, 'low risk', third country nationals, who have been granted registered traveler status, despite the fact that they may be subject to visa requirements. Individuals could be granted registered traveler status after appropriate screening on the basis of common vetting criteria. To become a low-risk traveler, the third country national would need to have previously traveled to the EU and stayed for a while, which would give them a reliable travel history. Other criteria would include proof of sufficient means of subsistence, absence of threat to public order, and holding a biometric passport (COM 2008 69).

(f) *Entry/Exits System*: Part of the same Border Package (COM 2008 69) as the two systems above, the Entry/Exit System envisions registering the entry and exit of third country nationals (with or without visa) in order to avoid overstayers. An entry/exit system would apply to third country nationals admitted for a short stay (up to three months), covering both those that are subject to the visa requirement and those that are not. The system would record information on the time and place of entry, biometric identifiers (face, fingerprints), the length of authorized stay, and automatically transmit alerts directly to the authorities, should a person be identified as an 'overstayer'. An alert available to national authorities could be issued once an individual's valid stay in the EU has expired, and no exit data had been captured.

(g) *European Border Surveillance System (Eurosur)*: EUROSUR aims to provide a common technical framework for the external border surveillance on the

southern Mediterranean and eastern borders of the EU. It seeks to integrate the numerous national surveillance systems and to use the collected information in a more coherent manner, and share more expensive surveillance tools such as satellites and unmanned aerial vehicles (UAVs) (COM 2008 68 final). It is designed as a decentralized system of existing systems, which will be established gradually in three phases. With technical studies under way, phase one is expected to start in 2011 (SEC 2009 1265 final).

This is by no means an exhaustive list, nor does it provide full descriptions of these systems. Nevertheless it gives us insight into the speed and intensity of developments in the field as well as the scope of the ambitions of European institutions. In addition to the above mentioned suprastate systems, one should also include various bilateral, commercial and public–private partnerships, an overview of which is even harder to obtain. One notable development is the controversial agreement on the transfer of PNR data between the EU and the USA, as well as the subsequent proposal by the EU Commission to establish an EU PNR system (COM 2007 654 final; see also Mitsilegas, 2009). The transmission of PNR data (essentially the information contained on flight reservations) takes place to prevent terrorism and organized crime, not for border checks, nor is it linked to the Schengen cooperation as such.

Additionally, there are several bilateral and commercial systems for expediting air travel, essentially based on biometric solutions. One example is FLUX, the US–Dutch frequent traveler program, whose proclaimed objective is to make travel a 'seamless experience'. FLUX is a governmental partnership that allows efficient movement of frequent international travelers across borders of participating countries. The program is currently reserved for US and Dutch citizens. Its customers are so-called low-risk passengers, with no criminal record, no customs and immigration convictions (their vetting is renewed every three months) and who are willing to pay the enrollment fee of 374 Euros, plus the additional 150 Euro yearly fee for the privilege of skipping queues and time-consuming border checks. A similar program, called IRIS, named after its iris recognition system, is also offered by the UK authorities at four UK airports. The system has registered over 382,000 passengers, significantly, they are not only UK citizens, but also other frequent short-term travelers. Unlike the Dutch system, IRIS is relatively cost-free for individual travelers and it checks its database daily against security watch lists (for analysis of other similar systems see, inter alia, Adey, 2004; Muller, 2010).

'Crimmigrant' bodies and bona fide travelers

Like mobility itself, the surveillance of mobility is also a highly stratified phenomenon and thus demands a theoretical framework which would allow us to take into account the numerous differences and nuances within this domain. As evident from the outline above, the objects of the surveillant gaze are not only the movements of high risk groups, such as potential terrorists or persons with criminal convictions, but also the mundane activities of frequent flyers who are willing to pay for the benefits associated with being watched. And while Foucault (1977) famously described the panoptic gaze of the disciplinary society as one of descending individualization (the lives of those in the bottom

being exposed to the panoptic gaze, while the upper layers of society are afforded relative anonymity), programs such as IRIS and FLUX, given the amount of information recorded and the frequent background checks against security watch lists, clearly run counter to the Foucauldian maxim and conform to Haggerty and Ericson's (2000) observation that hierarchies of visibility are being leveled, producing rhizomatic surveillance structures. Moreover, rather than being distinguished by the amount of data collected about them, the surveillance of socially privileged populations seems to be driven by a different set of objectives and consequences than the surveillance of those on the bottom of the social hierarchy.

Several important recent contributions have shed light on the social sorting capacities (Lyon, 2003) of western border surveillance systems and their tendency to differentiate between what Bauman (1998) famously termed 'tourists' and 'vagabonds' (see, inter alia, Adey, 2004; Pickering and Weber, 2006; Weber and Bowling, 2008). However, the social sorting qualities of the systems presented above do not simply divide their subjects into the mobile global North and the 'mobility poor' global South (Pickering and Weber, 2006). Although seeking to provide higher levels of mobility to certain globally privileged populations, contemporary border surveillance is also defined by a specific functional and discursive role given to crime and security, which to some extent defies the classic divisions between North and South, West and the rest, inside and outside of society. The discursive and political coupling of migration and crime is creating a specific dynamic of social exclusion which transforms traditional social boundaries and deals not simply with an 'immobilised global underclass' (Pickering and Weber, 2006: 8), but an *illegalized* global underclass, whose control is a driving force behind the formation of many of the transnational surveillance networks.

Crime control has become particularly important in defining contemporary systems of governance (Simon, 2007), including issues of border control and global governance (Findlay, 2008). Preventing cross-border crime (i.e. terrorism, human trafficking, drug smuggling and illicit arms traffic) has been, at least on the discursive level of policy formation, the main driving force and justification for systems such as the Schengen Information System and Eurosur (see, for example, COM 2008 68 final). However whether it is these forms of illicitness which end up being the main target of surveillance is another question. Judging from the recorded activity of the Schengen system, illegal migration is its main practical preoccupation. About 80 percent of entries in the Schengen database refer to article 96 which deals with illegal aliens (European Council, 2010). The illegalities produced through definitions of unauthorized mobility as a criminal matter are thus proving to be the major target of EU surveillance systems, and thereby also a vital motor of day-to-day EU police cooperation.

The intertwining of crime control and migration control is also evident in several other databases such as the VIS, Entry/Exit and Eurodac systems. VIS is particularly interesting given its sheer size, administrative nature, openness to police and security agencies and the potential synergies it may have with other police databases. This convergence of crime control and immigration enforcement has been dubbed in the US context 'crimmigration law' (Stumpf, 2006). These two previously distinct legal spheres are increasingly converging and overlapping, particularly through the progressive criminalization of immigration offenses and through the growing similarities in how

they are enforced (see also Bosworth, 2008; Commissioner for Human Rights, 2009). The two systems are united by a similar social function of 'acting as gatekeepers of membership' and defining the terms of social inclusion and exclusion (Stumpf, 2006).

On the other hand, systems such as Automated Border Crossings, the planned Registered Travelers System, IRIS and FLUX, seem to be driven by a different logic. Although crime figures in the pre-vetting procedures, the primary objective of these systems appears to be *gate opening*. Surveillance paraphernalia is used to speed up the process and to make travel 'a seamless experience' for so-called bona fide travelers. These two groups of passengers—crimmigrants and bona fide travelers—may not always be clearly distinguishable; the EU's ambition is, after all, to make the various systems interoperable and connected to one integrated border management system. Nevertheless, there are clear lines of distinction since it is precisely the time savings resulting from more lax controls of bona fide travelers which would 'allow border authorities to focus their resources on those groups of third country nationals that require more attention' (COM 2008 69 final: 6).

One marker used to differentiate between the so-called crimmigrants and bona fide travelers is, naturally, citizenship. The explicit purpose of systems such as Automatic Border Crossings, IRIS and FLUX, is to ease travel burdens for citizens of their respective states. Moreover, by virtue of signing the Schengen Agreement mobility has become one of the main benefits of European integration for EU citizens. However, while citizenship is the most salient marker between who is to be subjected to 'gate closing' and 'gate opening' forms of surveillance, it is not the only one. The privilege of high mobility is not reserved only for EU citizens and, importantly, it is not a privilege enjoyed by all EU citizens. The purpose of programs such as Frequent Travelers and IRIS is to carve out from the long lists of third country nationals the ones which are trustworthy (the use of the term bona fide implies good faith, sincerity and genuineness; the opposite of being deceitful, false and bogus).

The main EU police database, the Schengen Information system, also includes in its categories of alerts EU citizens who can be put under surveillance, checked and have their mobility restricted (Mathiesen, 2004). One category, article 99, has been open to considerable debate because of its potential for broad interpretation. The article refers to persons or vehicles to be placed under surveillance or subjected to specific checks in relation to serious criminal offenses. Questions have been raised about whether groups of so-called 'violent troublemakers' (related primarily to mass gatherings such as international sports and cultural events, European summits and G8 meetings) should fall under this category. A report issued by the Schengen Joint Supervisory Authority (2008: 33) recently

> raised doubts as to whether the kind of activities described in the proposal could be classified as 'extremely serious criminal offences' and lead to an alert under Article 99. The Joint Supervisory Authority also pointed out that the term 'troublemaker' was not defined either in the Schengen Convention or in any European or international legal instrument.

Although enjoying formal citizenship, the freedom of these groups has been restricted because of their allegedly criminal status, as was evident in recent debates about en masse deportation of Roma from France and other EU countries. The citizenship status

of these groups is irregular or 'flawed' and comes close to what Zedner (2010: 379) terms 'probationary citizenship', which although developed in respect of immigrants, 'is extended to all those whose standing as full citizens is in doubt'. Consequently, the 'crimmigration' policies are directed not only towards the exclusion of undesirable non-citizens but also 'seep into domestic crime control' (Zedner, 2010: 381).

Between zoe- and biopolitics

Even though the markers of citizenship are the primary lines of distinction between gate closing and gate opening, it is evident from the discussion above that the picture is more complex and requires additional attention. According to Schinkel (2010), citizenship represents a focal point of two interrelated, but distinct, forms of social control: zoepolitics and biopolitics. Building on the works of Agamben and Foucault, he suggests that zoepolitics is 'primarily *externally* directed towards persons outside the state, as becomes visible, for instance, in the reduction to bare life of those detained in Guantanamo Bay and in the administrative detention of "illegal aliens"' (2010: 156, emphasis added). Biopolitics, on the other hand, 'is *internally* directed and aims at the control of populations occupying the state's territory but which are discursively placed outside the domain of hegemony marked as "society"' (2010: 156, emphasis added). The two forms of politics are distinguished by two distinct sets of rationalities and objectives and in what follows I build on the two distinctions, presented in their ideal typical form, in order to shed light on the surveillance dynamics outlined above.

According to Agamben (1998) the main preoccupation of zoepolitics is to establish the distinction between the human and the citizen; or the often cited Schmittian discrimination between friend and enemy (Schmitt, 1985/2005). This is close to the traditional task of border control which is to determine who is a member of the polity and who is not. Several of the surveillance systems presented in this article, such as the SIS, Eurosur and Eurodac, operate according to this logic by targeting unwanted aliens (i.e. aliens to be denied entry), bogus asylum seekers and 'asylum shoppers'. Here, through the figure of the *homo sacer* (the banned person), Agamben establishes an explicit connection between the state's protection of human life and the possibility of its destruction as 'bare life'. Refugees and those subjected to various types of administrative and extra-legal detention tend to be described as contemporary homini sacri (Agamben, 1998). And although the contention has been open to critique because of its overly pessimistic and passive image of these groups (Guild, 2009), Agamben brings attention to one important aspect of state politics: the ability to kill by expelling life from the sphere of legal protection. The institution of the ban indicates that the juridical order has been suspended, a position which bears a considerable resemblance to the humanitarian anarchy and loss of life at Europe's Southern Mediterranean borders, where the Eurosur system will be primarily applied (Aas, 2011b). Moreover, zoepolitical surveillance primarily operates according to ban-optic objectives (Bigo, 2006), which represents a move from the panoptic rationality to the more openly exclusionary forms of control, where the focus shifts from disciplinary normalization to banishment and denying entry.

While the main concern of zoepolitics is with banishment and exclusion (which nevertheless is, according to Agamben, an inclusive exclusion), biopolitcs, on the other

hand, is concerned with classifying the life of the social body. Its primary objective is the 'internal differentiation *inside* the bios' (Schinkel, 2010: 166, emphasis added) and control of populations already occupying the state's territory. It is, as Foucault (2004: 247) eloquently put it, 'power to make live'; a 'technology of power over the population as such, over men insofar as they are living beings'. Biopolitical surveillance is thus directed at the (already established) social body, its health and productivity. While zoepolitics creates precarious life conditions, biopolitics finds its sphere of application within a normatively and legally regulated territorial space, where the objective is to multiply life and incorporate it into the political sphere. Instead of homo sacer, 'the paradigmatic figure of the bio-political society can be seen, for example, in the middle-class Swedish social-democrat' (Ojakangas, 2005: 5). Consequently, biopolitical surveillance internally differentiates the bios, and its forms of exclusion are primarily scientific and moral, rather than territorial exclusion from the polity as such (Schinkel, 2010). This process is exemplified by the heated debates about home grown terrorists, other types of 'crimmigrants' and integrating immigrant populations. This type of politics creates groups of subcitizens—or what might be termed 'outsiders inside'—who, although territorially included, find their citizenship status securitized and substantially depleted (Muller, 2004). Here, systems such as the PNR, Schengen and Entry/Exit, enable the authorities to uncover the potentially risky and untrustworthy individuals, overstayers and 'trouble-makers' mentioned above, who are (no longer) deemed worthy of freedom of movement. Unlike non-citizens, who are subjected to zoepolitics, these groups can be described as irregular or 'flawed citizens'; they belong formally, but their inclusion is morally in question (Schinkel, 2010).

It would be misleading, however, to suggest that these forms of control can be found in their pure, or extreme, forms in the surveillance systems described in this article. Rather, what we often see is symbiosis, hybridity and mutual interaction. For example, preserving life plays an important role in justifying the Eurosur system (at least at the discursive level), while the practical consequences of Frontex's actions may be to increase migrant vulnerability and even mortality (Aas, 2011b). Moreover, normalizing, panoptic forms of control, have a long history of incorporating elements of banishment and territorial exclusion, exemplified by prisons and other closed institutions (Foucault, 1977).

Biometrics and 'multi-speed citizenship'

The concepts of bio- and zoepolitics are useful for distinguishing between the control of national and foreign risky populations, safe and unsafe citizens, and for the development of what Benjamin Muller (2010) terms, 'multi-speed citizenship'. However, we need an additional caveat if we are to understand gate opening forms of surveillance which are afforded to privileged non-citizens. These are exemplified by IRIS and the Registered Traveler program, which create an internal differentiation in the zoe by letting in life which, in a sense, should be bare, yet it is not. Termed, in a different context, by Hyndman (2000) as 'supracitizens', such individuals enjoy higher forms of mobility and privileged compared to other groups of foreigners, 'usually on the basis of the resources—economic, educational and cultural—which they bring with them' (Guild, 2009: 21). This includes not only foreign business, diplomatic and cultural elites, frequent flyers (from visa

white-listed and occasionally also from visa black-listed countries), but also those 'humanitarian internationals', such as staff of international relief agencies, academics, consultants, lobbyists and international human rights workers (Sandvik, 2010: 290). Although their position evades easy categorization, one might say that they inhabit the global bipolitical rooms which have been carved out of the zoe. This inclusion into the global bios is, importantly, not primarily connected to citizenship but most often to private forms of economic, cultural and social capital.

This development has prompted some observes to ask 'what is left of citizenship' (Muller, 2004). The question suggests a process of decomposition, where the original 'citizen' or 'sovereign' or 'authority' has decayed (Muller, 2004: 280). According to Muller, in western societies citizenship is being decomposed into 'identity management'. The shift is exemplified by a change in focus from questions of entitlement and rights, and attendant cultural and ethnic attributes of citizenship, to questions of 'verifying/ authenticating "identity" for the purpose of access to rights, bodies, spaces, and so forth' (Muller, 2004: 280). To understand this development demands a thorough analysis of one of the central techniques for constructing safe identities in contemporary societies: biometric technology. Biometrics (predominantly fingerprinting, but also facial and iris recognition) are, with the exception of the PNR and the first edition of the SIS, employed in all of the databases described above. Biometrics are used both to detect illegal migrants and so-called asylum shoppers through the EURODAC system, overstayers in the planned Entry/Exit system, and to speed-up movement and open gates at Automated Border Crossings, for IRIS, FLUX and Registered Travelers.

Biometrics has become the prime technology for tracing the new globality in both its abject and privileged forms. Its seeming infallibility tempts the authorities with a promise of security and a solution to one of the basic problems of modernity, which has acquired a particular salience in a globalizing world: the problem of suspect identities (Cole, 2001). As Lyon (2010: 607, emphasis added) suggests: 'Showing a token of legitimate ID is now a *basic condition for the exercise of freedom*.' This points not only to how biometric technologies limit movement by producing 'disqualified bodies' (Muller, 2004), but also to the advantages they can offer to those with the right tokens—the globally mobile 'kinetic elites' (Adey, 2004). The fixity of biometric identities, their lack of ambiguity and their binary language, are the qualities which facilitate the speed of movement and automatic verification envisioned by systems such as Automated Border Crossings and Registered Traveler.

By connecting identity inextricably to the human body, with biometrics '[t]he border and the body merge' (Muller, 2010: 86). The body becomes, in a sense, a passport or a password and an unambiguous token of truth (Aas, 2006). By creating this docile body, biometrics tends to be seen as an exemplary bio-political technique connecting the individual both to his or her own identity and to the external systems of governance (Muller, 2010). It may therefore be useful to reflect further on the bodily nature of these technologies. On the one hand, they produce digital signs which transform ordinary citizens into digital citizens, or netizens (Muller, 2010) and offer access to high-speed lanes and automated gates. Yet, one should be wary of focusing exclusively on the digital aspects of surveillance and forget the physical consequences for those who are not able to produce the right digital tokens. For example, in 2008, the Norwegian police recorded 280 migrants who had disfigured their finger tips in order to escape recognition by the

Eurodac system and subsequent deportation; 78 of whom were imprisoned for the duration of their recuperation (Nettavisen, 2009). These experiences show the darker side of the digital body, which is the physical body in pain. The mirror image of e-borders and the surveillance of digital bodies is therefore physical corporal surveillance practiced in detention centers, (physical) diversion practices undertaken by national and transnational border policing agencies and supported by militarized surveillance systems such as Eurosur, bodily searches by border officials and the like.

These two types of surveillance must be analysed in relation to each other. As Hyndman (2000: 111) points out, 'supracitizens' and 'subcitizens' are not simply descriptions of two distinct groups but rather 'represent linked but unequal identities'. Rather than underlining the mundane, socially integrated and organizational aspects of surveillance practices, the surveillance directed at these two groups brings to our attention its exceptional qualities. Although a growing strata of the population is captured by this surveillance of mobility (as evidenced by the sheer potential size of systems such as VIS and Entry/Exit), we should nevertheless be careful not to normalize the experience and to identify its socially stratified qualities which are directed only at certain populations. The often heard refrain about the mundane nature of surveillance and the erosion of citizenship, as well as Agamben's (1998) prediction about all life potentially becoming bare life, should be therefore balanced by taking into account the exceptional exclusionary and inclusionary nature of surveillance. Rather than exception becoming the norm, and citizenship dissolving into bare life, the examples discussed in this article show that citizenship is still a highly relevant analytical and political category, albeit one containing important exceptions. So, while EU surveillance systems are increasingly directed toward EU citizens (Guild, 2009; Mitsilegas, 2009), these practices are predominantly directed at specific groups of 'crimmigrant' others who form a class of subcitizens, where crime control objectives define the terms of their exclusion from the bios. The flip side of this negative exceptionalism is the positive exceptionalism directed at bona fide foreign citizens who, although treated as potential crimmigrants in the vetting procedures, are nevertheless empowered by surveillance, to open gates that remain closed to the vast majority of the world's less privileged populations.

Conclusion

It is important to consider the actual effects (and effectiveness) of the systems presented in this chapter. It has been suggested that the expansion of border surveillance is not only an expression of sovereignty but also an icon of its erosion (Bosworth, 2008; Brown, 2010). Walls function theatrically, in that they stage sovereign power, at the same time as they reveal the sovereign impotence in stopping the flows of people from reaching the territory (Brown, 2010). Looking at the visions of the Eurosur system as a 'system of systems' (COM 2008 68 final) one is inclined to ask whether they should perhaps be read as a surveillance fantasy rather than a realistic political endeavor. In such an understanding, walls and borders are also objects of desire—harboring fantasies of containment, impermeability, security, innocence and goodness (Brown, 2010)—thus invoking the emotive aspects of sovereignty familiar to students of late-modern crime politics (Garland, 2001).

A vital point, however, is that borders and surveillance are not about complete closure—not even in their fantastic forms—but are defined by specific conditions of permeability. By examining these conditions, this article outlined the role that border surveillance, and crime control more generally, plays in constructing a particular type of a global(ly divided) polity. By seeing borders as forms of a global 'mapping imaginary' (Balibar, 2010), the object of concern becomes not only the physical boundaries, but also social boundaries which provide us with particularly revealing windows to analyze 'self' and 'other' (Donnan and Wilson, 1999). In this context, practices of transnational surveillance—unlike more inward directed national surveillance—revolve around alliances between 'states like us', and protecting the public which is no longer defined exclusively as the citizenry of the nation state. On the level of political discourse, these practices seem to aspire to notions of pan-European and cosmopolitan citizenship (Aas, 2011b). However, a closer examination reveals that not all European citizens are entitled to the privileges and that, on the other hand, the privileges are extended to a group of bona fide global citizens who seem to conform to Calhoun's (2003) description of cosmopolitanism as 'the class consciousness of frequent travelers'. By punctuating the seeming universality of citizenship, bona fide travelers and 'crimmigrant' others create what Balibar (2010: 321, emphasis in original) terms 'the cosmopolitan difficulty': Europe now needs to 'deal with its *double otherness*, or its internal otherness and its external otherness, which now are no longer confronted in absolutely separate spaces'.

This article has outlined a series of unequal positions held by various social groups in terms of their subjection to surveillance: citizens; subcitizens; supracitizens; and non-citizens. These are highly unequal positions, ranging from extreme deprivation to great social privilege. They reveal the inadequacy of the traditional liberal subjectivity, and its abstract and universal notion of citizenship, as the springboard for articulating a discourse of rights. Consequently, it is unclear how well equipped is the critical surveillance and privacy discourse, built on the language of citizenship, for addressing the unequal social and geopolitical positions of those subjected to surveillance practices on the global level. The various surveillance measures described in the article work from different (bio)political objectives and have markedly different effects on citizens of the global North, crimmigrant others and global bona fide travelers. For the latter, they have carved out pockets and corridors of protection and mobility. These practices bring to our attention what Judith Butler (2004: 29) has termed 'the qualitatively differentiated value of life' and the 'geopolitical distribution of corporeal vulnerability'. Biometric technologies may be experienced by 'regular' EU citizens as an uncomfortable invasion of privacy, with potential for misuse. By contrast, their use can result in *immediate* banishment and acute emotional and physical pain for those registered in the Eurodac system, thus showing the radically inequitable ways in which vulnerability is distributed globally.

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References

Aas, K.F. (2006) 'The Body Does Not Lie: Identity, Risk and Trust in Technoculture', *Crime, Media, Culture* 2(2): 143–58.

Aas, K.F. (2011a) 'Victimhood of the National? Denationalizing Sovereignty in Crime Control', forthcoming in A. Crawford (ed.) *International and Comparative Criminal Justice and Urban Governance: Convergences and Divergences in Global, National and Local Settings*. Cambridge: Cambridge University Press.

Aas, K.F. (2011b) 'A Borderless World? Cosmopolitanism, Boundaries and Frontiers', forthcoming in C.M. Baillet and K.F. Aas (eds) *Cosmopolitan Justice and Its Discontents*. London: Routledge-Cavendish.

Adey, P. (2004) 'Surveillance at the Airport: Surveilling Mobility/Mobilising Surveillance', *Environment and Planning A*, 36(8): 1365–80.

Agamben, G. (1998) *Homo Sacer: Sovereignty and Bare Life*. Trans. D. Heller-Roazen. Stanford, CA: Stanford University Press.

Agamben, G. (2005) *State of Exception*. Chicago, IL: University of Chicago Press.

Balibar, E. (2010) 'At the Borders of Citizenship: A Democracy in Translation?', *European Journal of Social Theory* 13(3): 315–22.

Bauman, Z. (1998) *Globalization: The Human Consequences*. Cambridge: Polity Press.

Bigo, D. (2006) 'Security, Exception, Ban and Surveillance', in D. Lyon (ed.) *Theorizing Surveillance: The Panopticon and Beyond*, pp. 46–68. Cullompton: Willan Publishing.

Bigo, D. and E. Guild (eds) (2005) *Controlling Frontiers: Free Movement into and within Europe*. Aldershot: Ashgate.

Bosworth, M. (2008) 'Border Control and the Limits of the Sovereign State', *Social Legal Studies* 17(2): 199–215.

Brouwer, E. (2008) *Digital Borders and Real Rights: Effective Remedies for Third Country Nationals in the Schengen Information System*. The Hague: Martinus Nijhoff.

Brown, W. (2010) *Walled States, Waning Sovereignty*. New York: Zone Books.

Butler, J. (2004) *Precarious Life: The Powers of Mourning and Violence*. London: Verso.

Calhoun, C. (2003) 'The Class Consciousness of Frequent Travellers: Towards a Critique of Actually Existing Cosmopolitanism', in D. Archibugi (ed.) *Debating Cosmopolitics*, pp. 86–116. New York: Verso.

Commissioner for Human Rights (2009) *Criminalisation of Migration in Europe: Human Rights Implications*. Issue paper, available at https://wcd.coe.int/ViewDoc.jsp?id=1579605&Site=CommDH

Cole, S. (2001) *Suspect Identities: A History of Fingerprinting and Criminal Identification*. London & Cambridge, MA: Harvard University Press.

Donnan, H. and T.M. Wilson (1999) *Borders: Frontiers of Identity, Nation and State*. Oxford & New York: Berg.

Findlay, M. (2008) *Governing through Globalised Crime: Futures for International Criminal Justice*. Cullompton: Willan Publishing.

Foucault, M. (1977) *Discipline and Punish: The Birth of the Prison*. Trans. Alan Sheridan. New York: Vinatge Books.

Foucault, M. (2004) *Society Must be Defended*. London: Penguin Books.

Garland, D. (2001) *The Culture of Control: Crime and Social Order in Contemporary Society*. Oxford: Oxford University Press.

Guild, E. (2009) *Security and Migration in the 21st Century*. Cambridge: Polity.

Haggerty, K.D. and R.V. Ericson (2000) 'The Surveillant Assemblage', *British Journal of Sociology* 51(4): 605–22.

Hyndman, J. (2000) *Managing Displacement: Refugees and the Politics of Humanitarianism*. Minneapolis, MN: University of Minnesota Press.

Lea, J. and K. Stenson (2007) 'Security, Sovereignty, and Non-State Governance "from Below"', *Canadian Journal of Law and Society* 22(2): 9–27.

Lyon, D. (2003) 'Surveillance as Social Sorting: Computer Codes and Mobile Bodies', in D. Lyon (ed.) *Surveillance as Social Sorting: Privacy, Risk and Digital Discrimination*, pp 13–30. London & New York: Routledge.

Lyon, D. (2010) 'National IDs in a Global World: Surveillance, Security, and Citizenship', *Case Western Reserve Journal of International Law* 42(3): 607–23.

Mathiesen, T. (2004) 'The Rise of the Surveillant State in Times of Globalization', in C. Sumner (ed.) *The Blackwell Companion to Criminology*, pp. 437–51. Oxford: Blackwell.

Mitsilegas, V. (2009) 'The Borders Paradox: The Surveillance of Movement in a Union without Internal Frontiers', in H. Lindahl (ed.) *A Right to Inclusion and Exclusion? Normative Faultlines of the EU's Area of Freedom, Security and Justice*, pp. 33–64. Oxford: Hart.

Muller, B.J. (2004) '(Dis)qualified Bodies: Securitization, Citizenship and "Identity Management"', *Citizenship Studies* 8(3): 279–94.

Muller, B.J. (2010) 'Unsafe at Any Speed? Borders, Mobility and "Safe Citizenship"', *Citizenship Studies* 14(1): 75–88.

Nettavisen (2009) *Flere fjerner fingeravtrykkene*. Available at http://www.nettavisen.no/innenriks/article2584898.ece

Ojakangas, M. (2005) 'Impossible Dialogue on Bio-Power: Agamben and Foucault', *Foucault Studies* 2(May): 5–28.

Pickering, S. and L. Weber (2006) *Borders, Mobility and Technologies of Control*. Dordrecht: Springer.

Rajaram, P.K. and C. Grundy-Warr (2007) *Borderscapes: Hidden Geographies and Politics at Territory's Edge*. St Paul, MN: University of Minnesota Press.

Salter, M. and E. Zureik (eds) (2005) *Global Policing and Surveillance: Borders, Security, Identity*. Cullompton: Willan Publishing.

Sandvik, K.B. (2010) 'Unpacking World Refugee Day: Humanitarian Governance and Human Rights Practice?', *Journal of Human Rights Practice* 2(2): 287–98.

Sassen, S. (2006) *Territory, Authority, Rights: From Medieval to Global Assemblages*. Princeton, NJ: Princeton University Press.

Schengen Joint Supervisory Authority (2008) *Activity Report: December 2005–December 2008*. Available at http://www.statewatch.org/news/2008/feb/08SISart99.htm

Schinkel, W. (2010) 'From Zoepolitics to Biopolitics: Citizenship and the Construction of "Society"', *European Journal of Social Theory* 13(2): 155–72.

Schmitt, C. (2005 [1985]) *Political Theology: Four Chapters on the Concept of Sovereignty*. Chicago, IL: University of Chicago Press.

Simon, J. (2007) *Governing through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Denial*. New York: Oxford University Press.

Stumpf, Juliet P. (2006) 'The Crimmigration Crisis: Immigrants, Crime, & Sovereign Power', *Bepress Legal Series*. Working Paper 1635. Available at http://law.bepress.com/expresso/eps/1635

Weber, L. and B. Bowling (2008) 'Valiant Beggars and Global Vagabonds: Select, Eject, Immobilize', *Theoretical Criminology* 12(3): 355–75.

Zedner, L. (2010) 'Security, the State, and the Citizen: The Changing Architecture of Crime Control', *New Criminal Law Review* 13(2): 379–403.

Additional legal sources

COM (2007) 299 Final: *Report from the Commission to the European Parliament and the Council* on the evaluation of the Dublin system, Brussels, 6 June 2007.

COM (2007) 654: *Commission of the European Communities, Proposal for a Council Framework Decision* on the use of Passenger Name Record (PNR) for law enforcement purposes, Brussels, 6 November 2007.

COM (2008) 68 final: *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions*: Examining the creation of a European Border Surveillance System (EUROSUR), Brussels, 13 February 2008.

COM (2008) 69 final: *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions*: Preparing the next steps in border management in the European Union. Brussels, 13 February 2008.

European Council (2004) *Council Decision* of 8 June 2004 establishing the Visa Information System (VIS) (2004/512/EC).

European Council (2010) Schengen information system database statistics dd. 1 January 2010.

SEC (2009) 1265 final, Commission Staff Working Paper: Report on the Progress Made in Developing the European Border Surveillance System (EUROSUR); Brussels, 24 September 2009.

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