THE (IN)VISIBLE BORDERS OF THE EU

Surveillance, Mobility and the De-humanized Other

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Word count: 9.716
# The (In)visible Borders of the EU: Surveillance, Mobility and the De-humanized Other

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I. Introduction

A little over a year ago, on June 5\textsuperscript{th} 2013, a former NSA employee caused for international public commotion, by leaking secret documents on the surveillance practices of the US administration to the national and international press.\textsuperscript{1} In the months that followed, Edward Snowden –the now well-known whistleblower– continued to leak secret documents to the press, which revealed how not only the USA, but also other Western states (amongst which the United Kingdom and the Netherlands) partake in large-scale, everyday surveillance practices, both domestically and internationally, and amongst allies and enemies alike.\textsuperscript{2}

In the media, the most prominent discussion that followed the NSA-leaks evolved around a ‘fight’ between two civil liberties: the right to privacy and the right to (national) security. This fear for the impairment of one –or several– civil liberties immediately sheds light on the complexity of the practice of surveillance.\textsuperscript{3} State surveillance, namely, is often associated with images of the Stasi in the DDR, the Orwellian ‘superstate’ Oceania\textsuperscript{4}, or with totalitarian regimes in general. It is often forgotten, however, that surveillance is also used by states to constitute and maintain those same (and other) civil liberties (Balkin 2008; Morozov 2011: 57-84). Think, for example, of the different roles that surveillance plays in the distribution of pensions, the creation of safe public spaces, and the use of personalized transportation cards. In all of these examples, surveillance is used to enhance rather than impair people’s civil


\textsuperscript{3} I would argue that this ‘fight’ between privacy and national security is a misleading one, as the debate tends to present the notions of privacy and security as rivals, assuming a zero-sum game between the two. Instead, I argue, privacy and security should not be seen as opposites, but rather as two different interpretations of freedom, which are positioned at different sides of the same spectrum. For more information on this matter see: Kim Taipale (2005) Technology, Security and Privacy: the Fear of Frankenstein, the Mythology of Privacy and the Lessons of King Ludd. In: \textit{Yale Journal of Law and Technology} 7(1), Article 6.

rights, by providing them with social services and security. It would be a mistake, therefore, to merely perceive surveillance as a state’s tool to dominate and oppress its own and/or other country’s people: there are more sides to the practice of surveillance.

While Snowden’s revelations have not disclosed a new phenomenon – state surveillance has a long history- it has, however, revealed the unprecedented scale and comprehensiveness of modern surveillance practices in and by Western democratic states, and its accompanying consequences. It has been stated that ‘modern democracies nowadays have more in-depth knowledge on their population than whichever dictatorship has had in the past’. Or, in other words, we are living in so-called ‘surveillance societies’: societies in which surveillance is being conducted on a continuous basis, in which it is part of people’s daily life; societies in which the use of surveillance is an important organizational practice of the state.

A documentary broadcasted by the Dutch television program Tegenlicht at the beginning of this year, called het Veiligheidscomplex (‘the Safety Complex’), offers an example of the ways in which surveillance has come to play an important role in state’s security policies. The documentary specifically portrays how European states have increasingly come to make use of surveillance technologies to control people’s mobility at – and beyond - the external EU borders. Within a little over a decade, the international security industry has grown from 10 billion in 2001 to over 100 billion a year in 2011, as the relationship between technology and border control has developed from the building of actual walls to the creation of new ‘walls’ around Europe, which consist of a variety of surveillance, monitoring and security

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5 Note that these examples do not exclude the element of state control: the state also benefits from people’s right to social services, safety on the street and the registration of people’s mobility, as will be made clear in this thesis. I argue, however, that control should not be equated with full domination, oppression or ‘evil’ state conspiracy theories.

6 Terms and Conditions May Apply, 2013.


8 Tegenlicht (‘Backlight’) is a television-documentary program that is weekly broadcasted on television by the Dutch broadcasting company VPRO.
technologies (for example, the use of camera’s, sensors, drones and/or biometric passports).\(^9\)

The building of these walls, which are also referred to as ‘smart borders’, is often perceived as being part of an U.S. security strategy that was developed in reaction to the terrorist attacks on New York and Washington in 2001. The bombings of 2004 and 2005 in Madrid and London, consequently, are seen to have further encouraged the adoption of this strategy within the EU. The idea of smart borders, however, has been a point of discussion long before these attacks took place: it has been part of the U.S. immigration debate since the early 1990s, specifically in relation to the (illegal) migration issues at the U.S.-Mexico border. In Europe, likewise, the issue of smart borders was not primarily addressed due to national security concerns, but predominantly on grounds of immigration control (Bigo et al. 2013: 14-15).\(^10\)

International migration has become one of the most prominent issues in states’ national security debates, as migration is increasingly being linked with (international) terrorism. The terrorist attacks in the 2000s have only helped to enhance these pre-existing associations. Consequently, state border control in general –and the use of surveillance technologies at borders in specific- has strongly expanded (Adamson 2006: 165-166). When looking at the EU’s approach to border control, these changes can be seen in the implementation of several surveillance and monitoring systems, such as the Schengen Information System’s (SIS I and II), the Visa Information System (VIS), and the Frontex Information System –which resulted into the foundation of the EU border agency ‘Frontex’ (Bigo et al. 2012: 6).

Though each provides a different service, these systems all have two EU security objectives in common: ‘...the widespread implementation of surveillance technologies and techniques to enhance security, law enforcement and defence capabilities in these core “mission areas”...[and secondly, they share] the drive for “interoperability”, or the integration of surveillance tools with other government information and communications systems...’ (Hayes 2009: 29). European states, in other words, have increased the role of surveillance technologies in their own security strategies with the aim to integrate these technologies and techniques on a supranational level.

\(^9\) Het Veiligheidscomplex, 2014.
\(^10\) Het Veiligheidscomplex, 2014.
This use of surveillance technologies and techniques at state borders, however, does not stop at the geographical borderlines of a territory. The registration and regulation of people’s movement within and across national boundaries can be seen, for example, in the implementation of the personalised, digital public transport card; the biometric passport; the tracing and tracking of mobile phones and GPS locations; and in the use of number plate recognition technology by tax authorities. The state’s focus, therefore, can be said to have shifted from border control to a more general focus on the control or management of people’s mobility (Pécoud 2013: 1).

Not all people, however, are faced with the same level of surveillance. Teenagers in supermarkets, homeless people on the street, mental patients in hospitals, and migrants at the border: all these groups face higher levels of surveillance, be it in the form of door policies, the installation of CCTV-systems on the street, random police check’s on the street or the observation of people in specialized institutes. All those that are regarded as being (potential) deviants or as ‘not-belonging’ are treated as an ‘Other’; and consequently, are subjected to intensified surveillance (Walby 2005: 184). It can be questioned, therefore, whether and how these various intensity-levels of state surveillance affect people’s right to freedom of movement. Therefore, in this thesis, I will critically look at the following question: *How does the use of surveillance technologies at the border, as conducted by the EU, influence people’s degree of mobility?*

In doing so, I will look at two recent proposals by the European Council: first, the proposed ‘Smart Border Package’, which consists of the Entry/Exit System (EES,
considered for implementation) and the Registered Traveller Programme (RTP, considered for implementation); and secondly, the EU Border Surveillance System (EUROSUR), which has been implemented at the end of 2013 (Bigo et al. 2012: 87-90). Although these proposals have not been (fully) implemented at this moment, they do offer important insights into the current and future directive that the EU takes towards the issues of surveillance and border control. These two cases will therefore function as central examples in my discussion of states’ use of surveillance at the EU border.

The analysis of these two cases is based on a variety of theoretical material, which discusses the main concepts of this research: surveillance, mobility, borders and the concept of (state) identity –which has proved to play an important role in relation to all of the other concepts mentioned. The literature used in this thesis originates from a variety of disciplines, amongst which international studies/relations, surveillance studies, anthropology, sociology, security studies and human/political geography. One of the most important sources of my research has been The Surveillance Studies Reader (edited by Sean Hier and Josh Greenberg, 2007), which has provided me with a broad overview on the topic of surveillance, by the most influential writers in the field. I feel obligated to mention one of these authors separately, as the work of the Canadian sociologist David Lyon has been one of the most extensive sources of my research. Likewise, the various articles written by political geographer Henk van Houtum have proven to be crucial for the writing of this thesis, by enriching my understanding of the issues of borders, migration and (national) identity. Finally, the Tegenlicht documentary mentioned earlier, Het Veiligheidscomplex, has greatly inspired me in my thinking and understanding of these issues, and has provided me with a clear case study during my roaming of the theoretical fields of surveillance and security.

In the upcoming pages, I will offer a critical overview of the central concepts of my research. In doing so, I will give special attention to the processes of ordering, bordering and othering that take place at (and beyond) the borderline. I will also discuss the history and development of the practice of surveillance, and the different

ways in which surveillance can be used by states. Finally, I will discuss the various socio-political implications of the use of surveillance technology at the border on people’s mobility. First of all, however, I will turn to the concepts of borders, identity and mobility, in order to get a better understanding of the ways in which a state manages and controls its external borderline.

II. Borders & Mobility

In recent decades, several scholars have discussed how states have increasingly come to enhance the policing of their external borders.\textsuperscript{15} This development can be partly explained by the globalization of the world, which has incited the rise of transnational flows of money, goods, and people. While the movement of capital is often being encouraged and facilitated, the movement of people rather faces restrictions (van Houtum & van Naerssen 2001: 128-129). These transnational migration flows, namely, are considered to challenge the sovereignty, autonomy and national security of the state, as they question the traditional territorial organization of the political world (Devetak 2005: 182). In other words: transnational movement is considered to disrupt the status quo, which has led states to emphasize their boundaries and borders. Or, as Nayak and Selbin put it: ‘...the globe is shrinking, but the borders seem to be bigger’ (2010: 94).

The end of the Cold War, the 9/11 attacks in New York and Washington, and the terrorist attacks in London and Madrid are believed to have further encouraged the state’s strengthening of border control. Immigration, namely, has come to be closely linked with the issue of national security, leaving migrants to be framed in terms of risk, uncertainty and even criminality: migrants are managed as potential threats. As a result, the management of borders has become increasingly restrictive, securitized, and even militarized (Adamson 2006: 166, 179; Doty 2007: 123; van Houtum & Pijpers 2007: 295).

\textsuperscript{15} See, for example, the work of Adamson (2006) Crossing Borders: International Migration and National Security. In: International Security 31 (1): 165-199. It should be noted, however, that this line of argumentation excludes opposite developments, in which states are seen to diminish rather than enhance their level of border control. Think, for example, of the opening up of the internal state-borders between the various European Member States, which created the Schengen Area (van Houtum & Pijpers 2007: 293).
Before I will look more closely at the ways in which the nature of EU border management has changed, it is important to get a better understanding of the significance of borders and the role that identity plays in border issues. Therefore, I will now first discuss the concept of borders, the act of bordering and the development of the notion of the so-called ‘borderscape’.

Borders, (B)ordering and Borderscapes

Border control is inherently a matter of identity management, as it presumes a constant process of distinguishing between those who are, and those who are not considered to ‘belong’ to a specific group. Traditionally speaking, the border has been defined as the locus for this decision-making process of a state. When following this perspective, the border is solely perceived as the line that symbolically and/or literally demarcates a specific territory: the place that distinguishes the internal from the external (Anderson 2006 [1973]; Brambilla 2014: 11; Torpey 2000: 63). Therefore, the most important task of any sovereign power is the guarding of its borders, as it is the place where the sovereign can claim its right to decide who is in and who is out. This control on its territorial borders enables the sovereign – amongst others- to manage the flow of people, goods and labour; to limit the foreign access to its markets; and to sustain its internal security. The right to decide on matters of in- and exclusion, therefore, is a defining power of the sovereign state: it is how the state is able to constitute itself as being a state (Adamson 2006: 176; Devetak 2005: 174-176; Rule 1973: 19-20).

To perceive a border just as a demarcation-line and as the sole locus of a state’s decision-making process, however, leaves us with a very narrow understanding of the concept. Borders should be understood as multiplying and constantly changing: they are not only located at the margins of a state’s territory, but can also be distinguished in symbolic and ideological ways, such as language, norms, values, dress codes, architecture and moral conduct (Devetak 2005: 175; van Houtum 2010: 290-291; Paasi 2012: 2303-2305). Think, for example, of the burqa and niqab bans in countries such as France, the Netherlands and Belgium; or the ban against the building of minarets on mosques in Switzerland; or the obligatory integration-
programs for migrants in the Netherlands. All these examples represent different types of borders, which are located within state-lines. Modern states, in other words, do not only constitute their boundaries physically, but also (re)produce and uphold their identities in ways that go beyond their geographical state-lines (Anderson 2013: 2-3; Devetak 2005: 175-178).

A border, therefore, should be understood as being inherently political, normative and dynamic: as a construction of a specific reality or truth. These truths are constructed through the act of bordering: the process through which the inside is being internalized and the outside is being excluded (van Houtum 2010: 290). The truth that is being (re)constructed in and at borders, however, is only just that: a truth/reality, not ‘truth’ itself. Or, to use the concept of the philosopher Jean Baudrillard, a border should be seen as a simulacrum: as a simulation of a model of reality that is no longer based on a specific interpretation of reality (the ‘really real’), but rather has created its own reality. Simulacra should be understood, therefore, as constructions of a reality or a truth that have come to precede reality, rather than represent it. Such simulacra, however, are often presented as being general truths, rather than specifically constructed ones. They can do so with success: simulacrum can come to dominate reality, as Baudrillard argues: a simulacrum can be true without representing ‘the truth’ (Baudrillard 1988: 166-169; van Houtum 2011: 50). A border, therefore, should be understood as a created reality, by which the created inside (that what is considered to ‘belong’) and the created outside (what is considered not to ‘belong’) are true within that specific created reality.

The concept of ‘borderscapes’ further enhances this understanding of the changing, constructed character of borders. The word ‘scapes’ originates from the Dutch/German term scheppen/schaffen, which can be translated as ‘to create’ (van Houtum & Spierings 2012: 4). This process of creation can be distinguished in how the act of bordering actively changes a ‘neutral’ space into a place: a specific

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interpretation of a space. The fact that such a place is being (re)constructed -by constantly being (re)bordered- is what offers the space its shape and meaning: the space has become a ‘borderscape’ (Brambilla 2014: 10). The concept of borderscapes, therefore, is able to further reveal the complex, dynamic socio-spatial relations that take place at and across borders, thereby challenging the traditional geopolitical, territorial understanding of the concept. Borders, in order words, should be understood as standing at the centre of the political sphere, rather than at the margins (ibid.: 2,6).

One of most important contributions of the concept of borderscapes is its insight into the understanding of borders not only as ‘markers of belonging’, but also as ‘places of becoming’. The boundaries between belonging and exclusion are constantly changing and evolving, thereby functioning as ‘a political tool for ordering reality’ (ibid.: 10). Dominant understandings of the meaning and significance of boundaries, which Brambilla calls hegemonic borderscapes, are constantly being (re)constituted. These hegemonic borderscapes, however, simultaneously offer a context in which alternative ideas and practices can evolve and present counter-hegemonic understandings of boundaries (ibid.: 10-11). The true-ness of the ‘truths’ in the self-created realities of borders, therefore, constantly faces the threat of being disrupted by the true/truth-making processes of other constructed realities.

The ways in which states (re)create distinctions between the internal and the external on a supranational level, and how they are able to create such realities of trueness, is closely related to the theory of Orientalism, as explained by Edward Said. In order to understand the exclusionary processes of bordering and ordering between states, therefore, it is now necessary to look at the process of othering.

*Othering at the Border*

In his work *Orientalism* (2003 [1977]), Said looks at the ways in which ‘the West’ distinguishes itself from ‘the Orient’. He argues that this distinction was used to justify the position of the superior Western colonizer/imperialist in relation to the colonized Oriental: while ‘the Orient’ was portrayed as irrational, childlike and abnormal; the Western dominant discourse presented itself as rational, mature and ‘normal’. This constructed political vision on reality, which based its hierarchical
structure on the distinction between the familiar (‘us’) and the strange (‘them’), is what Said has called Orientalism (ibid.: 37-44).

The identity politics that underlie this relationship between the familiar and the strange, or the Self and the Other, reveal the mutual dependency between such categories: the Self can not be without being able to not be the Other; while the Other, likewise, needs the Self to be the Self’s Other, and needs a different Other in order to be its own Self (Nayak & Malone 2009: 256). Due to the way in which the identity of the Other is being constructed and determined by the superior Self, the Other is portrayed as that what the Self is not, and does not want to be. Nevertheless, the Other presents the Self with a potential danger, as the Other can blur the difference between the inside and the outside (van Houtum & Pijpers 2007: 297). Consequently, the Other needs to be contained, disciplined, and/or excluded from the realm of the Self. The identity of the inferior Other, in other words, is both a necessity of -and a threat to- the identity of the Self (Devetak 2005: 117). Moreover, the notion of an external Other that threatens the internal Self creates a moral space, in which a specific hierarchy of superiority and inferiority is being constituted. The creation of the Other as an enemy, more specifically, can be used as a means of justifying possible politico-military measures taken by the Self towards the Other (Devetak 2005: 176, 178).

In order to safeguard their own internal security and national identity, states can be seen to make use of this process of othering in order to exclude the Other from their inner realm. The state-border is one of the main loci where the distinction is made between insiders and outsiders, as it is the place where is decided which outsiders are able to gain (temporary) access to the insiders realm. This process of othering at the border, in other words, has important consequences on the mobility of people.

Mobility at, in, and beyond the Border

Mobility holds the potential to disrupt: counter-hegemonic discourses, after all, are able to disturb the existing order and thereby challenge the hegemonic discourse of any political unit (Brambilla 2014: 11; Torpey 2000: 58). International and transnational movements, consequently, are often regarded as ‘deviant’ processes that pose a social and/or a political risk to the status quo and therefore need to be regulated and controlled by the state. Identity management at the border, in other
words, has turned into an issue of risk assessment (Geiger 2013: 17; Pécoud 2013: 1-2). In order to make mobility more readable—and thereby more manageable—the state makes use of the process of social categorisation, in order to identify the level of risk and uncertainty of such ‘mobile people’. As a result, border crossers are being divided into categories of ‘high’ and ‘low’ risk people (Pécoud 2013: 7; Smith 2013: 83, 93).

The freedom to move, consequently, is becoming one of the most stratifying factors of our time: while some people’s mobility is being enhanced, the majority of the people is being confined in their mobility, or have even been made immobile due to these processes of categorisation (Bauman 1998: 2-3). This development has an enhancing effect on already existing global inequalities, causing for the worsening of the position of the marginalized groups, while improving the position of the more affluent people (Graham & Wood 2003: 219). The risk of maintaining existing marginalities and reinforcing cumulative disadvantages, therefore, is considered to be high (Lyon 2010: 621). Due to the radical and increasing inequality that can be discerned in people’s degree of mobility, Bauman argues that a hierarchy of mobility is emerging, which divides people into categories of those ‘high up’ and those ‘low down’ on the freedom scale (Bauman 1998: 86-87).

Surveillance technologies play an important role in this process of risk-assessment, by providing states with the data that is used to determine the level of risk and, consequently, the granted degree of mobility. Due to these technologies, the regulation of people’s mobility can be performed, not only at the border, but also beyond: movement within states has become increasingly registered, traced and tracked, for example, through the use of biomedical data in passports, CCTV-networks, personalized credit- and public transport cards and the tracking of GPS-locations of phones (Graham & Wood 2003: 219; Lyon 2002: 136; Lyon 2010). Before it is possible to look at the possible implications of the use of such surveillance technologies on people’s mobility, however, it is necessary to have a deeper look at the concept of surveillance, and how it has developed over time.

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17 The term ‘cumulative disadvantage’ is often used as a perspective on poverty processes. It describes how the marginalized groups of a society are often believed to become further disadvantaged, as a result of their marginal position. The opposite notion, cumulative advantage, refers to how the majority group of a society is often found to end up in more comfortable conditions, due to their dominant position within society.
III. Surveillance & the State

It is important to realize that surveillance – which in its literal translation signifies the act of (closely) watching over (someone/something) - is not a new phenomenon. The practice has a long history, both in informal, social settings and under more official conditions (Lyon 1992: 160; Marx 2002: 17-18). The act of social control, for example, could also be understood as a way of conducting surveillance. In the setting of a village or a city neighbourhood, information on other people’s behaviour and well-being can easily be obtained, exchanged and corrected through the means of observance and gossip. In these settings, each person functions as both a disciplinary and a safeguarding ‘set of eyes’ (Eriksen 2001 [1995]: 59-60, 75-77).

In larger settings, however, surveillance takes other, more official forms. While informal surveillance practices are not altogether erased in these settings, large places such as cities do provide people with the possibility to act and move in more anonymous ways. This has urged states to increase the level of knowledge on their people, in order to enhance their ability to monitor and control their population more precisely (ibid.: 157-160; Scott 1998: 53-83). The history of political surveillance – surveillance conducted by governments and/or intelligence agencies - therefore, is closely related to the development of the modern state and goes back as far as the 16th and 17th century (Marx 2002: 18). In the past few decades, these state surveillance practices have taken place in different manners, for example through the implementation of the passport system, the requirement of civilian resident registration or the use of CCTV-systems in public areas.\(^{18}\)

Legibility, therefore, is one of the aims that states pursue when conducting surveillance. By making their territory more ‘readable’ through the use of such practices, states enhance their capacity to manage their population (Scott 1998: 2, 18). This kind of control is a necessary element in the constitution of any form of social unit, as it is a way through which the unit is identified as being a unit. Surveillance, therefore, enables the state with the information that is required to maintain and safeguard its own identity as being a state: it constitutes its own ‘state-ness’ (Rule

\(^{18}\) CCTV (Closed Circuit Television) refers to the use of a group of video cameras to transmit signals to specific places, such as the placing of video cameras in banks, stores or neighbourhoods of a city.
Therefore, if people deviate from the norms that are being constructed as part of a state’s identity—for example by transgressing the speed limit, or by committing fraud—surveillance is one of the means through which the state is able to detect and correct such violations.

But what exactly is surveillance? Traditionally, it has been defined as the act of collecting and combing people’s data, and the supervision of their activities (Lyon 1992: 160). Recent technological and socio-political developments, however, have not only changed surveillance itself but also the ways in which states make use of surveillance technologies. Therefore, the traditional definition of surveillance is in need of some critical reflection.

The New Surveillance

In the past decades, many states have started to increase the role and importance of surveillance in their way of governance. This growth in the use of surveillance is related to a combination of technological and social-political developments, such as the emergence of the Internet, the evolving sphere of information technology, the bureaucratic and regulatory character of the Welfare State, the 9/11 attacks and the War on Terror (Balkin 2008: 3, 5; Lyon 1992: 168; Marx 2002: 18). The Welfare State, for example, has contributed to the establishment and development of official databases, which enable states to regulate and implement the rights and benefits of their civilians. The Cold War—and more recently the War on Terror—moreover, have helped to generate the development of several military information technologies that are necessary to conduct such surveillance practices (Balkin 2008: 3, 4n).

These various developments have not only led to a quantitative change in the state’s practice of surveillance, but have also significantly altered, extended and intensified the ways in which states are able to observe their citizens (Bok 1982: 284-285; Lyon 1992: 159, 168). Surveillance as a practice has become less difficult, less expensive and less visible—or even invisible—to conduct. Moreover, it has become easier to conduct without the consent (or knowledge) of the target\(^{19}\), albeit in more

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\(^{19}\) Consent, namely, can and does play a role in surveillance. The acknowledgement and acceptance of specific forms of surveillance can be distinguished, for example in the use of personified public transport cards or in the acceptance of online privacy settings.
manipulative and less coercive ways. This ‘new surveillance’, furthermore, can be performed from a distance and in a continuous matter, as it has predominantly turned into a routine activity and an automated process. The most significant change in the practice of surveillance is, however, that the collected data now enables the state to obtain information on the past, present and future behaviour of the observed target, which makes it possible to use surveillance in a preventative way (Marx 2002: 13-16, 28-29; Morozov 2011: 150).

Surveillance has increasingly become part of people’s daily lives, as David Lyon states: ‘surveillance is part of the way we run the world in the twenty-first century’.²⁰ Think, for example, of the data that can be obtained from seemingly unremarkable registrations: by public transport cards, debit cards and mobile phones. Or consider the data collected through the tracing of social media accounts, the monitoring of email servers or the history of web-searches. Time has passed and the means of surveillance have changed accordingly. Therefore, it is necessary to formulate a new definition that incorporates these changes: surveillance as the act of gathering, combining and analyzing personal data through ‘the use of technological means’ (Marx 2002: 12, my emphasis, CFD).

Being ‘Embraced’ by the State: Acts of Caring or Controlling?

As argued before, state surveillance is often associated with authoritarianism and totalitarian states, in which surveillance mainly functions to oppress populations. There are other motivations, however, for states to want to regulate, control and discipline their societies through the use of surveillance. Torpey (2000), for example, makes a distinction between the ways in which states penetrate and embrace societies. The former refers to the ways in which states have enhanced their capacity to reach into their societies, in order to extract from them what they need. This idea of penetration, however, offers a limited understanding of the nature of modern states, as it excludes the ways in which states construct and sustain long-term relationships with

their population. While such relationships, Torpey argues, enable states to penetrate their population more effectively (ibid.: 56-57).

It is the act of embracing that enhances the relationship between people and states. The etymology of the concept goes back to the German word ‘erfassen’, which can be loosely translated as ‘to grasp’ or ‘to lay hold of’—in the sense of ‘register’ (ibid.: 57-58). The concept of erfassen, therefore, can be related to James Scott’s concept of ‘legibility’ (Scott 1998: 2), as the state’s embracing efforts enables the state to ‘read’ and manage its society more precisely. Or, more specifically, it enables states to embrace particular persons more precisely, while excluding others, which makes the act of embracing crucial to the production and reproduction of a states’ identity. Surveillance and other systems of registration, therefore, can be seen to play an important role in states’ efforts to achieve such ‘legibility’, as these systems help to embrace and penetrate the Self, while excluding the Other (Torpey 2000: 57-58).

The fact that the use of surveillance technologies enables states to extract information from their own and other states’ populations—at times even without the targets’ awareness or full comprehension of these activities—is one of the key elements that explains why people often associate surveillance with state oppression and domination. In an earlier study, I have looked at the ways in which the access to knowledge creates a hierarchical division between those with and those without access to specific knowledge. Those with access, the ‘knowers’, find themselves in an advantaged position, as they are able to determine whether, when and how to use or act upon such obtained information, while the ‘not-knowers’ are kept in the dark. The fact that the ‘knowers’ are able to do so in secret(ive ways), moreover, strengthens their position of power even further. In other words, knowledge is power, or rather: the access to knowledge is (Fiedeldij Dop 2011: 11-12). Consequently, as the practice of surveillance offers the state a means through which it is able to make itself more knowledgeable, surveillance should always be understood as a means of power. It should not, however, be understood as an inherent means of oppression, as every form of power has the potential to be either used and/or abused (Giddens 1985: 37; Lyon 1992: 166).

Surveillance, therefore, can also play a necessary role within non-totalitarian states, both as a means of state control and as a way through which social services are provided. The increased importance of the use of surveillance in and by democratic states, for example, has led the legal scholar Jack Balkin (2008) to announce the
emergence of ‘the National Surveillance State’: a state in which the use of surveillance should not be seen as oppressive, but rather as a new form of governance.

The National Surveillance State

As argued by Balkin, the National Surveillance State is a new form of government that has emerged out of both the Welfare State and the National Security State. The Welfare State, namely, has contributed to the implementation of multiple social programs, such as pensions and child benefits, which required the registration of people’s information. The National Security State, on the other hand, has encouraged the development of specific technologies and intelligence institutions that are needed to obtain such personal information (ibid.: 5-6).

The National Surveillance State should be understood as a specific form of an Information State: a form of governance in which data is collected and analyzed in order to identify problems, uphold national security, govern populations and deliver social services. In a National Surveillance State, such data collection is done through the means of surveillance, argues Balkin (ibid.: 5-6). While information states can be found in both authoritarian and democratic societies, the way in which they are implemented strongly differs. In theory, data collection in democratic information states needs to be justified, should not take place in a continuous manner and requires the data to be discarded on a regular basis. These conditions imply that the government can still be held accountable for its actions in democratic information states, as the public has insight into its laws, decisions and data-collection. Within an authoritarian information state, the public is mostly unable to hold its government accountable to any of the above (ibid.: 17-18). In practice, however, it has become clear that democratic states such as the Netherlands and Germany do not always comply to these requirements either. The NSA-leaks have revealed how these countries have conducted surveillance on a continuous basis, while storing data on ungrounded and unclear grounds; and without offering the public any guarantees that the data will be fully discarded.\(^21\)

Surveillance, in other words, can be used in a variety of ways and for a multitude of purposes. It has become clear, however, that state’s use of surveillance technologies does not affect all people in a society in an equal manner, but leads to processes of categorisation. Whether someone is considered to pose a high or a low risk to the state’s inner realm, after all, is based on the risk-analyses of data that are obtained through the means of surveillance. The categories that follow such risk assessments, in other words, have an impact on people’s lives (Graham & Wood 2003: 222; Lyon 2010: 622-623). It is important, therefore, to look how states’ use of surveillance technologies (differently) affects people’s degree of mobility. Doing so, I will specifically look at the ways in which the EU has equipped its external border with a variety of surveillance, monitoring and regulating technologies, and how this impacts people’s mobility within and into the European Union.

IV. Surveillance & Mobility at the EU Border: Death, Bodies, Risk and Categorisation

When discussing the implications of the intensified use of surveillance at the EU external border, the effect that needs to be mentioned before any other, is the strong rise in the number of deaths at the border. The most infamous example of this development is the Lampedusa migrant shipwreck of 2013, when a small Libyan boat, carrying approximately 500 people –including children- caught fire and sank close to the Italian island Lampedusa. Only 155 people survived. Unfortunately, this was no isolated incident: the European border has literally turned into a deadline, or rather, I would argue, a deathline (van Houtum & Boedeltje 2009: 228; Jeandesboz 2008: 17).

Recent numbers show that, since the beginning of this year, already close to 42,000 people have tried to reach Italian territory by boat –disregarding those

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travelling by boat to countries such as Greece and Spain.\textsuperscript{24} The crossing is very dangerous: even when the overcrowded, ill-equipped boats do manage to survive the crossover, the passengers still face high risks of dehydration, sunstrokes and hypothermia, while floating on open water for days. These specific crossings, however, are not the only ways through which migrants try to enter the EU: some try to cross overland, hiding in or under trucks; while others hide in cargo containers that are being shipped to European ports. As such travels take days (or even weeks) and the containers and trucks are often unventilated and/or overcrowded, many die of either suffocation or asphyxiation. Besides all these risks, the migrants also face the dangers accompanying human trafficking and smuggling, such as extortion, kidnapping and/or sexual and physical abuse. Finally, even after arrival to the EU, migrants face strict immigration policies, which have caused an increase in the number of suicides amongst people waiting in detention and deportation centres (van Houtum & Boedeltje 2009: 228).\textsuperscript{25}

At the European border, the use of surveillance technologies is most clear when looking at the EU border agency Frontex and the recently implemented EU border surveillance system, EUROSUR. Frontex\textsuperscript{26} has been established in 2005 in order to execute the EU’s Frontex Information System. The goal of the agency is to improve the coordination of the operational cooperation between the different Member States in the management of the EU’s external borders. Doing so, the agency assists the Member States in the implementation of these operational aspects and provides them with risk analyses on potential threats, which are conducted through a common integrated risk analysis model. Moreover, Frontex also provides the Member States – if necessary– with technical and operational assistance at the external borders, which

\textsuperscript{26} The name Frontex is based on the French words ‘\textit{Frontières extérieures}’, which means ‘external borders’. Officially, the agency is called ‘the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union’. For more information, see: frontex.europa.eu/about-frontex/legal-basis (latest access: 06-07-2014).
includes the organization of joint return operations of ‘third-country nationals’\(^{27}\) that are illegally present in the EU (Jeandesboz 2008: 1-5).\(^{28}\)

The EU border surveillance system (EUROSUR), moreover, is developed to link the geographical border with the ‘digital’ border, in order to create an EU-wide exchange network of information sharing and analysis (Bigo et al. 2012: 23; Jeandesboz 2011: 5). EUROSUR makes use of coastal radars, satellite tracking systems, unmanned aerial vehicles (drones) and autonomously functioning systems to target, identify and follow possible illegal crossings, such as the small boats that look to arrive at EU territory. The surveillance system, therefore, is meant to enhance the ‘situational awareness’ of Frontex and its reaction capability to prevent illegal border crossings at the EU’s external land, sea and even space borders. In practice, this implicates that EUROSUR pushes the Schengen states\(^{29}\) to continuously conduct surveillance at those EU borders – both land and sea- that are considered to pose a ‘high possibility’ of illegal crossings, in order to detect unauthorised migration (Bigo et al. 2012: 37).

The use of such surveillance technologies for border control purposes can be described as a proactive element of the EU’s security strategy. The EU advocates this proactiivity in the name of the protection of EU’s citizens and – as a response to the high death toll at the border- for the protection of illegal migrants and other persons in need. Surveillance at EU border control, in other words, is justified in terms of security and humanitarianism. What is ignored at this point, however, is the fact that the use of such technologies does not only potentially save people from dying at the border, but also puts those same people increasingly at risk, as the migrants will continue to turn to even more dangerous routes (Jeandesboz 2011: 7). The work of

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\(^{27}\) The term ‘Third Country National’ refers to a person who is applying from a visa from a country that is not his country of origin, in order to obtain access to a country that is not his country of origin either.


\(^{29}\) The states belonging to the Schengen Area (almost all EU States and some non-EU states) have all agreed to the Schengen Agreement that was implemented in 1995, which enables citizens to cross their internal borders without border checks. See for more information: ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/schengen/index_en.htm (latest access: 06-07-2014).
Frontex, therefore, could be said to lead to ‘...the displacement of the routes available to migrants to areas [that are] even more remote and perilous, [thereby] further endangering lives and greatly reducing the possibilities available for those individuals seeking protection to do so’ (Jeandesboz 2008: 17).

*The Body and the Border*

The implementation of EUROSUR is also illustrative for a second change in EU border management: the de-location of the border. The adoption of EUROSUR in the EU approach towards border control, namely, has encouraged Frontex to expand its surveillance missions beyond the geographical borders of the EU, into third countries and into the migrants’ country of origin. Surveillance at the border, in other words, has come to reach beyond the legal territory of the EU: beyond the external EU border (Bigo et al. 2012: 37; Jeandesboz 2011: 4-6).

In fact, the use of surveillance technologies has not only made it possible to de-locate the border from its geographical roots, but even to re-locate the border onto the objects that are being scrutinized: the border crossers themselves. People’s movement between and within states has become increasingly registered, traced and tracked, amongst others through the use of biomedical data in passports, CCTV-networks, personalized credit- and public transport cards and the tracking of GPS-locations of phones (Paasi 2012: 2305-2307; van Houtum 2011: 58). Through the scanning, enumerating, objectifying and processing of border crossers, people have become the borders themselves, as their moving bodies represent the border that need to be managed, registered, controlled and disciplined. The human body, in other words, has become the border-crossers’ passport and luggage, even in a literal sense: through the use of iris- face-, finger- and body-scans during border checks. The human body, therefore, has become the key site of borders in the modern, biometrically managed world (Paasi 2012: 2303-2307; van Houtum 2010: 287-288).

This change is also made clear in a different case study, which discusses the issues of mobility and surveillance at the US-Mexico border. Aguirre Jr. & Simmers (2008) have shown, namely, how the location and movement of border crossers from Mexico into the USA has come to define where the border exists in the eyes of the U.S. public (ibid.: 101-103). They argue that, as the physical border (the border wall) is being connected to the movement of Mexican people, the American public has
come to believe that their country is being invaded, not only by illegal migrants but by the border itself. Consequently, whenever the public is confronted with (Mexican) migrants in their country, the illusion of the US-Mexican border is erected in front of their eyes. Therefore, Aguirre Jr. & Simmers argue, the border can be said to come to travel on the back of the border crossers, situating the border where they go (ibid.: 103).

The use of surveillance technologies at the border, however, has not only changed border control in a spatial way. It has also changed European border control in a temporal way, as it aims to identify potential threats through the use of risk-analysis and constant surveillance (Jeandesboz 2011: 3-4). This temporal change is one of the most important alterations in the use and functioning of ‘the new surveillance’. The data obtained through surveillance, namely, is no longer only used to analyse the present or past behaviour of people, but has become an important factor in the analysis of people’s hypothetical behaviour in the future (Marx 2002: 15). Surveillance, in other words, has turned into a practice of risk management, which has become one of the key aspects of the functioning of ‘the smart borders package’ of the EU (ibid.: 4,8).

**Risk, Categorisation and the Border**

In 2008, the European Commission presented the European ‘smart border package’, which consists out of the Entry/Exit System (EES) and the Registered Traveller Programme (RTP). The main goal of the ‘smart’ borders at the external EU border is the enhancement of the efficiency and ease of border control, as stated by the European Commission. The Entry/Exit System and the Registered Travellers Programme, in other words, are predominantly designed to speed-up and modernize EU border checks (Bigo et al. 2012: 31-32).

The proposal of the Entry/Exit System (EES), which was issued at the beginning of 2013, primarily aims to identify overstayers: non-Europeans who have entered the EU through legal channels, but who have stayed longer than they were

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31 Ibid.
legally entitled to do. The Entry/Exit System aims to register the cross-border movements of these third-country nationals, in order to ‘...improve the management of the external border and the fight against irregular migration...’.\(^{32}\) In doing so, the EES would make use of the Biometric Matching System, which centrally stores both fingerprints and facial scans of travellers. The Entry/Exit System is meant to constitute the first consistent EU-wide record of all the entries and exits of travellers to and from the Schengen area (Bigo et al. 2012: 26-27, 30).

The second system of the proposed smart border package, the Registered Traveller Programme (RTP), is presented as a ‘compensation’ for the longer procedures of the planned Entry-Exit System. It is designed to electronically distinguish between different border crossers, by looking at the potential risk they pose. This degree of risk is considered to be low, according to the European Commission, when a person frequently travels to the Schengen Area for legitimate reasons (such as work or business), has a reliable travel history (those without an overstay-record), has sufficient means of subsistence and/or owns a biometric passport. Border crossers that comply with these factors will be labelled by the system as so-called ‘bona fide travellers’. Consequently, these entrusted travellers are able to cross the border more easily and quickly through the use of automated identity checks (ibid.: 31-32).

In other words, these systems of identification, surveillance and registration are being developed and implemented in order to enhance and facilitate European migration policies. There are a few important observations to be made here. First, the use of surveillance technologies at the border has an enhancing effect on the political and normative process of categorisation. Obviously, categorisation is not a new phenomenon: it can also be seen as a means through which the state is able to make its territory and population more ‘legible’ (Lyon 2003: 372). Recent technological developments, however, have enhanced the state’s capacity to collect, store and exchange data. This provides states with more (detailed) data, larger geographical and temporal coverage; and, above all, with the possibility to automate these processes of categorisation (Lyon 1992: 163, 167-168). Classification is more powerful when computer-assisted: it is more efficient, consumes less time and, most importantly, its

technological process and the outcome of the statistical analyses are often perceived as being flawless and neutral. The fact that they are neither –think of the hierarchies that accompany categorisation; and of the generation of false positives and/or false negatives in analyses – does not prevent many governments and institutions to (blindly) rely on these systems for advice, support and decision-making (Bigo et al. 2012: 32; Zarsky 2013: 1508, 1511).

Secondly, as stated earlier, these surveillance practices have come to be used mainly in a preventative way, categorising people *ex ante prosecution* (Balkin 2008: 11). The data that is obtained through the use of these various surveillance systems, moreover, is being integrated into a central European database network, which leads to the creation of digital ‘profiles’. These profiles are based on automated risk analyses, which divide potential border-crossers into categories of safe/dangerous, welcome/unwelcome and self/other. The process of in- and exclusion, in other words, is being automated, which increases the risk of stigmatizing, discriminatory and racial profiling (Borren 2008: 228-229; Graham & Wood 2003: 222; Zarsky 2013: 1513-1515, 1561-1562).

These digital profiles, moreover, have helped to create a reality in which people are being perceived and managed in terms of risk, categories and numbers. Within this created reality, these predicative profiles have come to be understood as being ‘more real’ than the actual person of whom the profile was made: the digital version has come to be considered as presenting ‘the truth’ (Bogard 1996: 97). Therefore, the use of surveillance technologies at the EU border can be seen to have enhanced the process of othering at the border, as the EU has produced ‘its own kind of strangers’ (Bauman in Houtum & Pijpers 2007: 298), through the creation of such categories of ‘Others’. Most problematic is, however, how people’s life chances are being red-lined through these processes of othering and categorisation. After all: once identified and appointed to a category, it is difficult to get out (Graham & Wood 2003: 222). The complex and opaque character of these surveillance systems, namely, curtails the possibility for the respective object to obtain any insight into – and therefore his/her possibility to fight against- the decision-making process around his/her categorisation. The complexity of the computer-programs, in other words,

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33 False positive: a result that indicates that a given condition is present when it actually is not. False negative: a result that indicates that a condition is not present, while it actually is.
together with the general opaqueness of the technologies at hand, confronts the ‘Other’ with an invisible border that will prove difficult to demolish (Zarsky 2013: 1519-1520).34

V. Conclusion: the De-humanized Other & the Gated Community of the EU

The European Union has often been portrayed as a fortress; build with strong and high walls to protect its people from the dangers at the other side. It has become clear, however, that the EU’s external border does not function in the clear-cut way as this metaphor suggests. Instead, the EU should rather be seen as a gated community, in which the affluent have comfortably situated themselves behind highly securitized walls, granting access to a few, while keeping the majority outside (van Houtum & Pijpers 2007). The guards at the borders are only allowed to grant (temporary) access to those that are able to meet the specific requirements of community. The mobility of all people wanting to enter the territory, therefore, is being strictly managed and controlled, amongst others through the use of surveillance technologies (think, for example, at the use of cameras, digitalized entrance-passes, secret passwords, scans and number plate registration). All these technologies help to enhance and maintain the division that is being made between those with, and those with limited or no access to the inner realm.

The walls of the European Union, likewise, have been intensified through the use of a variety of surveillance, registration and monitoring systems. People’s mobility is being continuously watched and monitored, as all ‘gate’-crossers face extensive and ubiquitous forms of surveillance, both at and beyond the outer-walls. However, some -the deviant, the marginal, the ‘Other’- have to succumb to more intensive forms of surveillance than others, as they are considered to pose a higher risk to the constituted Self of the inner realm. Due to the creation of digitalized profiles, people’s degree of mobility has become dependent on the predicative analyses of the obtained data. The use of surveillance technologies, therefore, can be

seen to have an enhancing effect on the process of othering that takes place at and beyond the EU border.

The combination between surveillance and the process of othering, however, does not only function to de-familiarize the ‘Other’, but can also be said to have a de-humanizing effect. As the personal data of individuals is turned into collective, digital profiles, border-crossers are being turned into measurable, abstract flows of information. The process of in- and exclusion at the border, moreover, has come to be determined by the use of such digital profiles, which demonstrates how they have come to be perceived as more ‘real’ than the actual persons in question. Border-crossers, therefore, are being locked into the constructed reality of risk-algorithms and categories, while their life opportunities are being red-lined in the process.

Finally, the increased use of surveillance technologies has the horrifying effect of having turned the EU-borderline into a deathline. While trying to circumvent the ‘multiple eyes’ of the EU’s surveillance systems, thousands of migrants are being forced to look for more dangerous routes of crossing, causing many of them to die on the way. As a result, the EU declares to increase its surveillance practices even further, in order to prevent these border-crossers’ deaths, thereby reinforcing the vicious circle of death and despair. The EU-border, in other words, is in dire need of some (re-)humanization.

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