

UK: Nation and State Separated by Suspicion

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For clarity, the nation is made up of its people, the state is made up of those who manage it. Today, more than ever, there are tangible signs that the two are diverging as the state views the nation as little more than criminal suspects who are now to be treated as if they were exactly that.

In 2015, the High Court in London ruled that core parts of the government Data Retention and Investigatory Powers Act or DRIPA were unlawful due to the lack of safeguards governing access to huge amounts of people's personal data. The Government then took the case to the Court of Appeal – which referred it to the European Court of Justice (ECJ) for clarification.

In December 2016, the ECJ backed the original High Court ruling and decided that before citizens' personal data is accessed there should be prior approval from a judge or independent body. It also ruled that retention of data was only acceptable for the purposes of dealing with serious crime, that people whose data had been obtained were entitled to be notified and that the data needed to be retained within the EU.

DRIPA expired at the end of 2016 – so the Government replicated and vastly expanded the same powers in the Investigatory Powers Act, which started to come into force in 2017. In other words, the government ignored the High Court and ECJ over DRIPA and reinvented the same surveillance activities, doing the same things that had been ruled illegal and carried on as if nothing had happened.

Ministers aren't supposed to be above the law. However, what actually happens appears to say differently. They are not supposed to pick and choose which rights violations they address and they shouldn't haggle with the courts to avoid properly protecting people's freedoms, and even then, when they fail, just doing it anyway under a different name is still illegal.

The result is as we at TruePublica have written many times before; hundreds of organisations and government related agencies, from police forces to HMRC, were able to grant themselves access to highly personal and revealing data for a huge range of reasons that had nothing to do with investigating serious crime. Don't forget it is the private corporations that build the software for all this data gathering and storage.

Under the new Snoopers' Charter, the UK intelligence agencies now have the ability to gather, store and access (any) records on the entire population whether you or the courts like it or not.

So, lets have a look at how this works in practice in just one part of the surveillance state we

live in today. You might agree that undocumented immigrants in Britain have no rights to access say, the NHS or to have their children educated at schools or to have the protection of the police. They are, after all classed by many of the mainstream media – ‘illegal immigrants’.

A year ago, a Freedom of Information request by the BBC exposed a secret agreement between the Home Office, the Department of Health and NHS Digital. It revealed that NHS Digital was sharing confidential patient information collected by frontline services with the Home Office on an industrial scale to help it locate and deport undocumented people.

[Liberty](#), the civil liberties and human rights charity wrote about how people who had experienced years of sexual violence but had never set foot in a GP surgery for fear that the Home Office would find them there. There were plenty of other examples such as a woman turning up at a charity clinic in labour because she did not believe the hospital could provide her with safe care. Of a person who had been held in domestic servitude and abused. She survived the injuries inflicted when her employer poured boiling water over her – but she died after contracting an unrelated illness for which she never sought medical attention because her immigration papers weren’t in order.

Liberty described this as “the Government’s insertion of border controls into health services is a masterstroke in calculated cruelty.”

And, as Immigration Minister Caroline Nokes boasted, sharing patient records with the Home Office is only “part of the suite of products that make up the compliant [formerly ‘hostile’] environment”.

The Government does in fact charge undocumented people for several categories of healthcare, effectively pricing them out of their (right to) healthcare. Again, you may agree that they should pay – they are illegal immigrants and not contributing to society by way of tax, even if they are by the nature of the work they do – but think of the implications of what is happening here.

A second data sharing scheme that allows the Home Office to use pupils’ school records for immigration enforcement is targeting hundreds of migrant children and families each month. The Government has even used charity data to locate, arrest and deport homeless migrants. You still might think that’s OK until...

The government is now spying on everyone’s bank accounts to search out undocumented migrants. When did anyone grant any government agency the ability to spy on the private banks accounts of lawful citizens – and who gave the banks permission to give out that data to government agencies?

Liberty goes on to say that “the Government is contemplating destroying (NHS) patient confidentiality in the name of border control.”

At the moment, NHS guidance advises that patient information should only be shared without consent on crime grounds when the crime is serious – like rape or murder – causing serious harm to the victim.

Yet in the name of ministers' obsession with cutting immigration, the Government simply downgraded patient privacy protections following a review of NHS guidance to make it easier for NHS Digital to share patient data without consent for purposes related to even low-level crime.

From the Home Office's perspective, the benefit of such sharing programmes isn't just the data it obtains on individuals. Running mass data sharing schemes in secret allows it to refine the technical capability to build profiles and link information on many thousands of people across government departments and data sets.

Liberty says- "Right now, this sinister architecture may be confined to the surveillance and targeting of undocumented migrants – and that in itself is deeply worrying. But once sufficiently developed, the Government could apply it to any other group it wishes, having already untethered itself from the principles of consent and confidentiality."

One can imagine a government who feels it need not adhere to the law, that it will use this surveillance architecture to excavate data leading directly to political dissenters or groups organising protests such as NHS marches. The violations of people's privacy is worrying at best.

If one looks at the Government's track record of illegally spying on its own citizens after creating a state surveillance system the east German Stasi would have been proud of, you would have thought that the citizens of Britain would have called time on the MP's who champion such authoritarian tendencies.

However, the Government has already marched down this road of authoritarianism. By introducing new exemptions in the Data Protection Bill, MPs have made it even easier to secretly use and share everyone's data – including that of lawful migrants and British citizens – for immigration enforcement purposes. Liberty reacted:

"Quiet battles in Parliament and the courts aren't enough to abolish these repressive measures for good. We urgently need a public conversation about whether we are willing to sacrifice people's lives, our privacy, and the foundational principles of our public services and democracy on the altar of building a border between "us" and "them".

Sadly, Britain is now one of the world's foremost surveillance states, allowing its police and intelligence agencies to spy on its own people to such a degree, which is unprecedented for a democracy at any time in history. The UN's privacy chief has called the situation "worse than scary." Edward Snowden says it's simply "the most extreme surveillance in the history of western democracy."

Special United Nations rapporteur Joseph Cannataci said *Britain* should be outlawing this type of data collection rather than legitimising it as he aired concerns that Britain was setting the worst example possible to the rest of the world.

These people who say these things have been saying so for a some years now, and yet, the people of Britain have said nothing. Not a murmur.

This mission creep by Britain's government is unprecedented. It is as if government now

views the citizens of the entire country as the enemy within. No citizen is to be trusted. No citizen is innocent – all citizens are suspects. Nation and state have not always coexisted so well, but today this fragile understanding is clearly at its worst moment for generations.

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