Surveillance, Discrimination and Welfare Policy in Ontario

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Abstract

The aim of this paper is to better understand the purposes of surveillance systems and their relation to discrimination. Scholars are in agreement that surveillance systems play a central role in contemporary society; however, they have diverging views on the purpose of surveillance. In the first section, arguments on the purpose of surveillance by both realists and critical theorists are presented. Thereafter, three welfare policies in Ontario are introduced with the aim of conceptualizing and concretizing some of the theoretical issues raised by realists and critical theorists. In the third part it is concluded that surveillance is a complex phenomenon, and that this complexity requires us to distinguish between different aspects of surveillance. Discrimination in surveillance systems not only happens on the level of ‘information processing’ but also on the level of ‘information collection.’

Most people agree that our lives are permeated with surveillance technologies. Our personal data is routinely and systematically collected and stored. Surveillance systems have become an aspect of our everyday lives: We are watched as workers, as consumers, as patients and as travelers. What is the purpose of surveillance? Is it to increase efficiency of systems, to prevent crimes and fraud, or maybe to assert influence and control over people? Although scholars are in agreement that in contemporary society surveillance systems play a
central role, they have diverging views on the purpose of surveillance.

This paper will look at various perspectives on this issue. Realist theorists like Dornan and Hudson (2003), for instance, have a positive conception of surveillance. They understand that surveillance can be used to discriminate against certain groups but believe that, by means of greater government control, surveillance can be ameliorated and used to distribute wealth more equitably. Critical and panoptic theorists, on the other hand, have a more pessimistic attitude towards surveillance. They point out that surveillance data is first and foremost used to either favour or discriminate against certain people. Consequently, they believe transforming surveillance practices into a positive and beneficial force is almost impossible.

Discussions about surveillance deal with issues such as data double, social sorting and discrimination, and privacy and data protection. The issue of the growing influence of private corporations is also a central component of surveillance debates. After introducing these topics, the paper will scrutinize them on the basis of a case study of welfare information collection policies in Ontario. In the mid-1990s, a number of new policies were introduced by the government. The paper will look at three policies in particular: the new verification procedures, biometric fingerscanning and the new provincial telephone fraud line. On the basis of Margaret Little’s research it will be shown that discrimination, as emphasized by critical theorists, does indeed occur. However, it is important to be clear that discrimination in surveillance processes can take place on more than one level; it can happen during ‘information collection’ as well as during ‘information processing.’

This paper argues that surveillance is complex, and that this complexity requires us to distinguish between different aspects of surveillance. Although critical scholars point out that surveillance can lead to discriminatory practices, they fail to distinguish between the various components of surveillance and hence present an overall negative picture of surveillance. In fact, both realists and critical scholars tend to talk about surveillance in a broad manner and critique it without making a distinction between its different aspects. Only by dividing surveillance up into its various components can we uncover its problematic aspects. It will be concluded that the central problem is not surveillance per se, but the way information is collected, processed and used.

There is widespread agreement among scholars that information societies are saturated with surveillance. Surveillance systems permeate almost all aspects of our lives. For instance, David Lyon (2001) calls our society a “surveillance society” because “one intrinsic aspect of all so-called information societies is that they are . . . surveillance societies” (p. 5). Others call this society a “personal surveillance society” in which “one of the principal uses of the global network is to exchange detailed profiles of individuals’ characteristics” (Perri, 2001, p. 41).
Surveillance is not unique to capitalism. In earlier forms of society, taxation and census records constituted a form of surveillance, and sometimes spies were used as a surveillance tool (Lyon, 2004). Under capitalism, these surveillance methods have developed to a point where technology now profoundly influences how surveillance is conducted. It is common that both corporate and government bodies are involved in surveillance: They have massive databases in which personal information is categorized and stored. Often, the databases are not only filled with information that these entities collect themselves, but also with data that they acquired from third-party vendors (Gandy, 1995). Corporations are interested in other people’s personal information for marketing purposes, while the government uses personal data to design social policies (Pleace, 2007).

Although there is agreement that we currently live in a surveillance society, scholars do not agree on the purposes of surveillance and database registries. Grabiner (2002) holds that they help tackle fraud and identity theft, and also modernize government services: “Of course, data-sharing is not only useful for tackling fraud. There is much overlap here with the work that is being carried out across Government to modernise the way that services are provided to the public and to make more use of electronic communications” (p. 27). Lyon (2004), on the other hand, believes that searchable databases are a means by which “social sorting” is done: “[S]urveillance systems . . . tend to depend increasingly on searchable databases. This means that they are used for ‘social sorting’, for the classification of populations as a precursor to differential treatment” (p. 142).

In order to illustrate the different views on the purposes behind surveillance, this paper distinguishes between two major camps in surveillance studies: the realist and the critical scholars. Realists understand that surveillance systems in some instances produce inequalities, but because these systems are not fundamentally bad, they can potentially be used for the redistribution of wealth (Pleace, 2007). Realists aim to focus on the positive uses of surveillance mechanisms and explain that increased surveillance should be embraced, “partly because it seems inevitable that greater information will be collected on all manner of our activities, but also because it may help the welfare state to deliver its services more effectively” (Dornan, 2003, p. 479). They argue that in order for surveillance to become a beneficial tool for society, governments need to have greater control over it. Consequently, realists call for “an increased role for the state in collecting, storing and acting on information about its citizens” (Dornan, 2003, p. 479).

Other scholars are more critical of surveillance systems. They believe that surveillance is firstly used to sort people into groups and then to either favour or discriminate against some of them. Lyon (2004) explains that personal data is collected “by a variety of agencies to be processed and often profiled to create data images . . . These are used as the basis of discrimination between one category and another, and to facilitate differential
treatment” (p. 138). Gandy (1995), another critical scholar, claims that surveillance essentially takes on the form of a panopticon, and hence refers to surveillance technology as the “panoptic sort” (p. 36). The panoptic sort allows an organization, by means of our personal information, to make a decision about us. “These decisions,” Gandy writes, “take place in the background, outside our conscious awareness” (p. 36) but they ultimately influence what choices we have in our lives. By definition, the panoptic sort is discriminatory as it “assigns people to groups of winners and losers on the basis of countless bits of personal information that have been collected, stored, processed, and shared through an intelligent network” (Gandy, 1995, p. 36). People are unaware of both the group that they belong to and how their group membership influences their lives. Consequently, critical scholars call for surveillance practices to be more transparent; they hold that people need to have control over what personal information is collected and how it is used.

A variety of scholars have pointed out that the data that is collected through surveillance and used to categorize us really does not reflect our complexities. For example, Gilliom (2002) argues that numbers and biological material do not account for our personal life stories:

Bureaucratic surveillance manifests a way of seeing and knowing the World that excludes much of our true complexity while moving a small cluster of characteristics to the forefront. Simplified criteria that are important to the State – such as documentation regarding income, family makeup, or evidence of unreported resources – push aside the other facets, dimensions and complexities of the lives of the poor. (p. 9)

The term “data double” is used to describe how people are represented in the form of data (Lyon, 2003). Although the ‘person’ we ‘are’ in the various databases is merely made up of numbers (such as our employee number, date of birth, etc.) and biological data (such as fingerprints and iris images), they greatly influence what things we have access to. For instance, data doubles are ultimately evaluated and are the reason why we are granted or denied entry to a particular country, or satisfy requirements for health and welfare services. At this point in time there is no way for us to find out how we are categorized in the various databases. That is to say, people do not have power over what data is collected or how it is categorized. They cannot escape or opt out of surveillance (Pleace, 2007; Gandy, 1995).

Another problematic issue in surveillance is how the categories in the
databases are decided upon. Many searchable databases are not controlled by the government but are designed and owned by private corporations (Lyon, 2007). Thus, the categories used in the databases to classify people are not decided upon by the public, but are established *undemocratically* by (unaccountable) people working in a private corporation. In short, private corporations have a growing influence on the way surveillance is conducted and how the collected data is used. This can be exemplified with Lyon’s (2007) research on new national ID cards. In his study he concludes that these new cards “are [a] product of a growing coalition between various groups; high technology hardware and software providers, corporations such as banks for whom the card may also have benefits, and government departments” (p. 117).

In short, issues such as the “data double” and the undemocratic process of categorization and data processing are concerns for both critical and realist scholars. These issues are central to discussions about surveillance. In order to better illustrate them as well as the perspectives of the realists and critical theorists, let us now turn to a concrete example of a surveillance policy.

**Anti-Fraud Policies in Ontario’s Welfare System**

In the 1990s, the Ontario government aimed to prevent fraud in the welfare sector (Mosher, 2005) and to increase efficiency in government services. As a result of the recession in the early 1990s, the number of people requiring welfare assistance increased dramatically. In the mid-1980s, 4.5% of Ontario’s population received social assistance, whereas in 1994 this number increased to 12.2% (Morrison, 1998). In combination with lower tax revenues as a result of the reduction of corporate taxes in 1994-5 (IHS Global Insight, 2010), higher demands on the welfare system forced the government to tighten regulation over the distribution of welfare funds. This came in the form of increased rationalization of the application process and closer monitoring of who is applying for welfare. Next to the introduction of these neoliberal policies, there was also an important ideological shift in the notion of the role of the state: No longer was there the conception that the structure of capitalism ultimately leads to poverty and oppression, and that as a consequence the state has a responsibility to provide for the less fortunate. Instead, individuals were now blamed for their particular status and place in society. That is to say, if one lost his or her job, the government no longer had the responsibility to step in and help out. Feminists have pointed out that although neoliberal policies make it much harder for everyone to receive social support, certain social groups – particularly women – face greater distress. “At the same time that the welfare state has dismissed women’s caring role in society and increasingly treats mothers as gender-neutral single adults, the state also has established increasingly gender policing strategies to regulate poor women” (Little, 2001, p. 12). In other words, on the one hand, the state began to minimize gender
differences in the application for social programs by having similar eligibility requirements, and on the other hand, it began to intensify gender distinctions.

In the attempt to cut government funding and to shift the blame of economic hardship onto the individual, the Ontario government introduced three major changes to welfare in the mid-1990s: Firstly, there was a cut in welfare rates; secondly, workfare was introduced; and thirdly, new anti-fraud measures were implemented (Little, 2001). This paper only focuses on the anti-fraud measures because this policy change is most relevant to the issue of surveillance.

Part of the new anti-fraud measures, which aim to ensure that the right people are collecting the right amount of welfare money, are new verification procedures, biometric fingerscanning and a provincial telephone fraud line. As a result of the implementation of the Canadian Health and Social Transfer (CHST) in 1996 (which replaced the Canadian Assistance Plan) there is no longer a national standard for welfare. Individual provinces now decide how much money is allocated to welfare and what the eligibility requirements for social programs are. In Ontario, the newly created welfare verification procedures take the CHST even further by giving welfare workers the authority to “delay or cancel welfare payments if [the particular] information [they demanded] is not provided” (Little, 2001, p. 24). Welfare workers now have the right to ask for literally hundreds of different pieces of information, and to steer the application in a certain way. In addition, the new verification measures put a tight timeframe on the welfare applicants; they have a maximum of ten days to provide the welfare workers with the required information (Little, 2001, p. 25). Biometric fingerscanning is now part of the welfare application process; fingerprints of all welfare applicants are now scanned and added to their application. Moreover, a provincial telephone fraud line opened in 1995, which enables anyone to make an anonymous call to report welfare fraud to the authorities.

These new policies ultimately constitute a form of surveillance. In a talk given in October 2009, Lyon defined surveillance as the “routine, systematic, detailed, and focused attention given to personal details needed for a specific purpose of controlling, influencing and entitling.” In the instance of this case study, the personal and biological information that is collected constitutes “focused attention” to personal details, and is ultimately used to decide whether someone is “entitled” to welfare. Expressed differently, one’s data double, consisting of various numbers and biological data, is used by the authorities to decide if one qualifies for welfare.

To what extent are the claims made by realists that surveillance brings about greater efficiency and modernizes government services, and the arguments about discrimination and social sorting presented by critical theorists, applicable to Ontario’s anti-fraud policies? Margaret Little, a professor at Queen’s University, who has written extensively on single mothers on welfare, investigated the implications of these new policies and argues that as a result
of them some people, in particular single mothers, are discriminated against.

Little (2001) explains that some information welfare workers ask for can be difficult and expensive to obtain in a short period of time. For instance, some people have been asked to provide evidence that over a decade ago, they gave up their vehicle. Others had to provide monthly bank statements from their entire family for the last three years, for which banks can charge up to $120 an hour. It goes without saying that, for a person applying for welfare, providing such information is extremely stressful, intrusive and costly. Moreover, meeting a tight timeframe for handing in information can prove to be difficult, most notably because authorities are often swamped with other requests. In other instances, for certain groups of people such as immigrants and aboriginals it can be difficult to get a copy of their birth certificates since they have to contact either the Department of Indian and Northern Development for notarized documents or their countries of origin abroad (Little, 2001, p. 25).

Little (2001) further explains that “[i]n August 1995 as part of an ‘anti-fraud’ initiative the Harris Government announced that single mothers would no longer be permitted to live with a spouse” (Little, p. 27). From now on if a single mother cohabits with a spouse, she will be cut off welfare. As a result of this, women applying for welfare as single mothers are required to provide more information than men because of the apparent ‘complexity’ of their relationships with others. Little (2001) writes that “a woman with a child must provide proof of the age and custody of the child, proof of her status in relation to any man, and proof of any payments from the father of the child” (Little, p. 25). Not only has the government become obsessed with finding out the spousal status of a single mother, but it has mistakenly cut off welfare from several women as a result of faulty information. For instance, some women have been accused of cohabiting with ex-partners even in cases in which the latter moved to different countries, were imprisoned or even deceased (Little, 2001, p. 27).

As a result of face-to-face interviews with Ontarian women on welfare, Little (2001) also discovered that the provincial telephone fraud line mainly affects single mothers, and that it does so negatively. Little argues that “single mothers are most often the targets of those who call the welfare office to report fraud” (Little, 2001, p. 26). Since one can place an anonymous call, many times ex-partners make use of this telephone service as a way of “getting back” at their ex, and to cause them hardship.

So far, we have seen that two out of three anti-fraud policies in the administration of Ontario’s welfare are clearly discriminative. But what about the policy of biometric fingerscanning? Is this policy effective in stopping and preventing welfare fraud? Ian Morrison (1998), a prominent law expert, points out that not enough studies have been done to support the claim that fingerscanning actually prevents fraud. Nor does biometric fingerscanning reduce costs; to the contrary, the expenses of implementing such technologies
often outweigh the savings they bring. Nevertheless, the introduction of such surveillance technologies continues apace, despite the fact that “there is no evidence that [fraud] is a major problem in welfare programs” (Morrison, p. 31).

It can thus be concluded that surveillance policies, such as the new anti-fraud measures in Ontario’s welfare system, are discriminatory, particularly against the most vulnerable and marginalized social groups. However, discrimination in this instance occurs not when assessing and processing the collected information (as Lyon, 2007 and Gandy, 1995 argue) but before the data is collected and put into databases. That is to say, people are treated differently prior to submitting their personal information to the welfare worker.

The argument that surveillance is a means by which people are discriminated against is valid in the case of welfare policies in Ontario; however, it is argued here that the critical argument of discrimination in surveillance is not specific enough. That is to say, this argument does not inform us that discrimination in surveillance can occur on many different levels. There is not just the discrimination that occurs once the data is collected and stored in databases, but there can also be discrimination prior to gathering and categorizing information in databases. It is for these reasons that it is useful to make a distinction between discrimination that occurs on the level of ‘information collection’ and discrimination takes place on the level of ‘information processing’.¹ Making this distinction allows one to make more specific analyses about where discrimination occurs and what groups of people it affects.

The aim of this paper was to better understand the purposes of surveillance systems. It argued that issues in surveillance are complex and that this complexity requires us to distinguish between different aspects of surveillance. By being more specific about the various levels of discrimination, constructive criticism on the phenomenon of surveillance can be made. This paper did not aim to provide a complete and inclusive account of the different aspects and levels of surveillance, nor did it aspire to present a full account of the discriminatory processes in Ontario’s welfare policies. It is hoped, however, that this paper will contribute to steering future research in that direction.

¹ Solove employs this distinction in his analysis of privacy (Solove, 2007, p. 757-758).
References


