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Copenhagen, 29 January 2024



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Welfare administration as police?

Digitalization and control of citizens

The Norwegian «social security scandal» 1994-2019

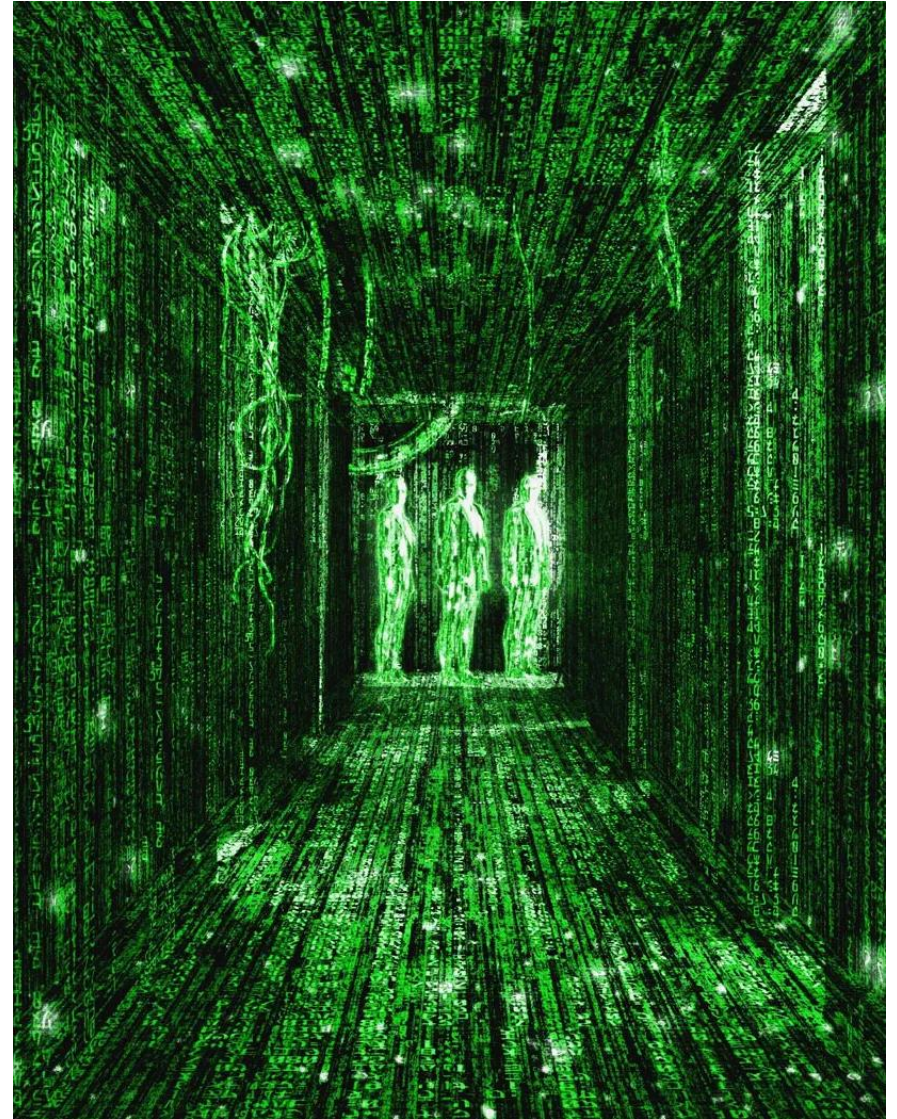
- National social security law was applied in conflict with EU/EEA law
 - 7000 individuals were affected: either denied rights to benefits because of stays in other EEA countries, and/or received very high claims for repayment
 - Around 70 persons received (wrongful) criminal sentences for welfare fraud

Administrative control as the backdrop:

- NAV Kontroll
 - Identified the «fraudsters» through i.a. routine checks of IP-adresses
 - Decided civil claims for repayment (and fines)
 - Forwarded cases of «fraud» to the police/public prosecution, who brought the cases without further analysis or investigation
- A key actor for understanding the scale of the scandal - but invisible in academic literature

Three arguments:

- New technology and increased access to data provides welfare adm with new opportunities for control – taking on police-type tasks
- Administrative control operates within a different rule of law framework than traditional police
- Current control practices by welfare administration changes the nature of the state



Control practices in Nav: a shifting trajectory

Traditional welfare state control: individual cases, if reason to suspect welfare fraud

Since 2002:

- Nav's control unit increased staff: 2 to 180 persons
- New powers to engage in mass surveillance
- Control on a broader scale, & irrespective of suspicion of welfare fraud

Nav has developed a range of work methods

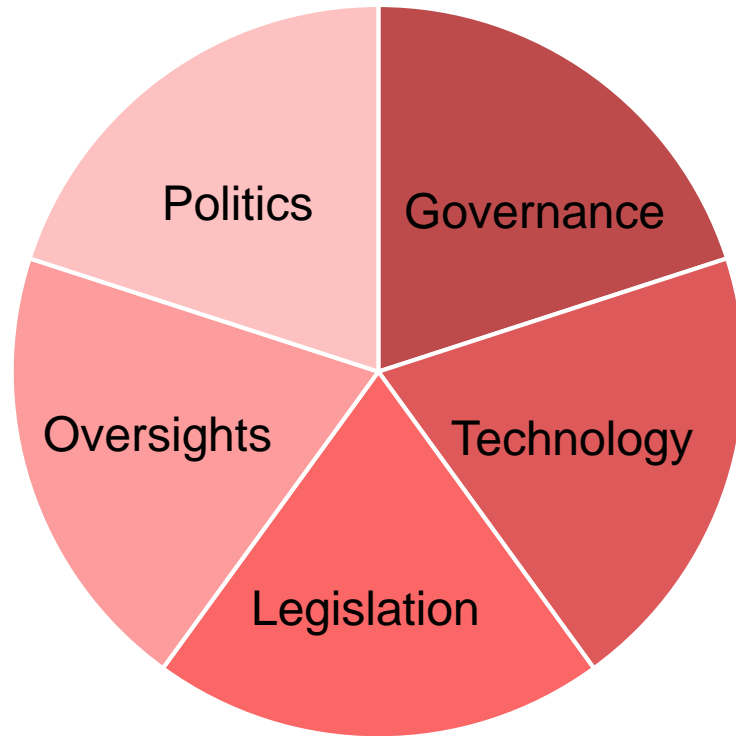
- Investigation by detectives
- Media appearances
- Closer cooperation with the police
- Tips from private parties in individual cases
- Mass data processing
- (Currently: supplemented by automated “risk profiling” and preventive nudging?)

NAV anmeldte svindel
for rekordbeløp



SER DEG: NAV sjekker både åpne kilder og lukkede registre i jakten på tryggesvindlere. Foto: John T. Pedersen

Mapping the changes and the ensuing rule of law standards



- Political consensus to increase control (incl. increased resources to control unit)
- Control as a key priority in ministerial governance
- New technology increasing control opportunities
- New legislation providing more powers to conduct control
- Limited oversight with the practices of control

Consequences for the state - background

- The 18th century police state:
 - Policing not limited to the protection of order and security, but extended to the general protection of the public good.
- The modern state based on the rule of law:
 - Policing restricted to security and order, within a rule of law framework.
 - E.g. Norwegian law: Police engaging in criminal investigations is
 - subject to the control of an independent prosecutor
 - ensuring protection of fundamental rights such as the right to privacy, presumption of innocence, protection against self-incrimination.

Auf Patrouille gegen den Sittenverfall

Von [Bettina Janecek](#)

17.08.2020, 06:13 Uhr Lesezeit 4 Minuten



In Uniform, aber unbewaffnet: Beamtinnen der Frauen-Wohlfahrtspolizei

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The control unit of the Norwegian welfare administration

- Carries out surveillance, preventive measures, and criminal investigations
- But in contrast to the police: not subject to the control of an independent prosecutor or other mechanisms to ensure the protection of fundamental rights
- As police activities blend into the welfare administration, without an effective rule of law framework, there is an echo of the police state in the 18th century



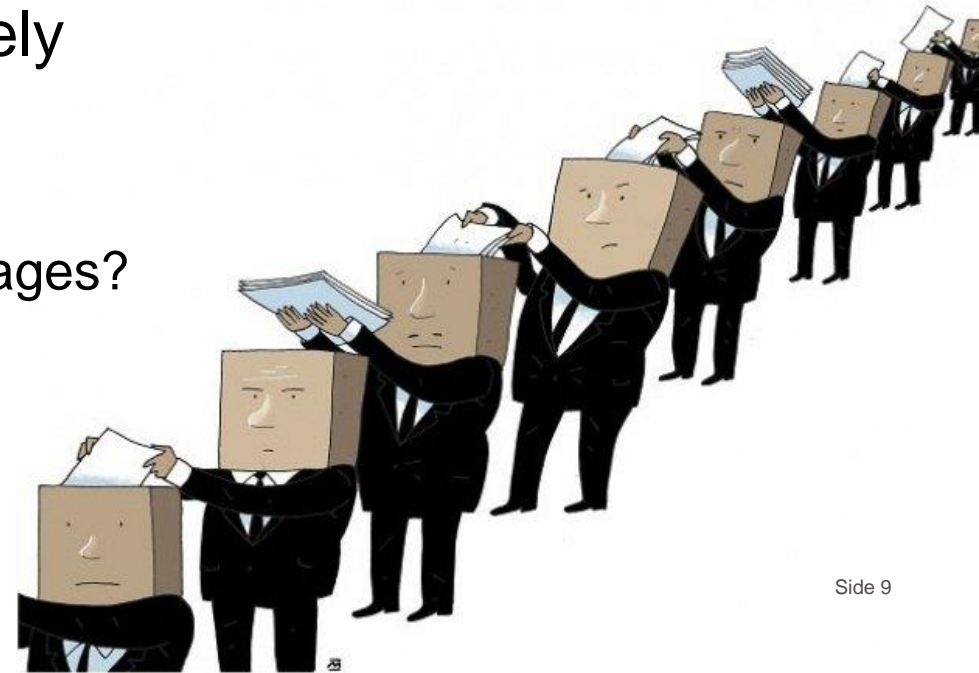
Illustration: «Welfare police», screenshot from Team Antonsen, satirical Norwegian tv show (2004)

Govt: Calling for changes, neglecting consequences

- The entry of the welfare administration to the domain of police-work has been an intentional development in government policy:
 - “In the Ministry’s opinion, appropriate information is necessary for effectively combatting welfare fraud. Nav must necessarily be at the centre of this work, because it is this agency that knows the regulations and can most easily expose such fraud. The police do not have the same opportunities and will almost always depend on information from the welfare administration. An effective fight against welfare fraud therefore depends on the welfare administration’s ability to reveal such fraud as early as possible.”
 - (our translation) Ot.prp. nr. 60 (2001-2002)
- While inducing and endorsing this change, the government has neglected both its foundational nature, and that the new tasks require efficient mechanisms to ensure rule of law of and fundamental rights.

Digitalization as a driver of change for control and policing

- Early 2000s:
 - Combination of mass data and new digital tools made it possible for the Norwegian welfare administration to take on police-like tasks in hyperefficient manners
 - Thus: Digitalization contributed significantly to the changing nature of the state
- Current administrative practices of control are largely unknown
 - Shift from detecting fraud to prevention?
 - Automation of case-handling moves control to earlier stages?



Implications

- What are the implications when police-type tasks and techniques are taken up by the welfare administration?
- Politics:
 - Are there any reasons to accept policies providing administrative bodies with more powers to investigate crimes and impose measures to prevent them, without being subject to efficient legal control?
- Research on (predictive) policing:
 - As other institutions than the police carry out similar techniques, future research on predictive policing should not confine its analyses to police institutions, but also include public administrative bodies.



Picture: Bill Watterson, Calvin & Hobbes