Report on Individual Identity



RISE PROJECT

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Title: Report on Individual Identity

Workshop Convenor: ULANC

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The European Commission 'Border Package': Identity Policies

Introduction	and Back	ground to	the RISE	Project
The Rising nan-Fur	onean and Int	ernational Aw	areness of Ri	ometrics and

The Rising pan-European and International Awareness of Biometrics and Security Ethics (RISE) project is aimed at promoting pan-European and International **Individual Identity and Technology** , such as when images of the 'surveillance society' are raised by involved

Identity Technologies/Identity Policies

Defining Individual Identity Broadly

identities

identity

elements of an individual's identity.	
	of an individual's identity in order to fulfil
Privacy by Design	
	Madrid Declaration
Defining Individual Identity	Narrowly

The Uses of Identity

Individual Identity as a Historical Concern

influence people's attitudes is to deny the continuity with
another within the European context increased the importance of one's nationality and hence
the social need to be able to prove one's nationality.
'recommenders' (where proof of identity on an individual would originate from a trusted source

Functions and Uses of Identity

Borders, Trust and Citizens: Managing Identities in the EUs

processes at the 'border' or within the EU and member states are significant elements of EU methods related to making the management of Europe's borders more secure, efficient and

Europe's borders as well

The European Commission 'Border Package': Identity Policies

Borders Code provides a harmonised definition of what 'the border' is according to European stablishes that external borders are conceived as "the Member States' land borders, including river and lake borders, sea borders and their airports, river ports, sea ports and lake ports, provided that they are not internal borders". This

ar message to "the outside" about a

E. Guild (2003), "The — Visas and Border Controls", in

In Search of Europe's Borders

Moving the Borders of Europe

for the 21st century'. A vision to 'foster further management of the EU's exte	rnal border by
country nationals at the external borders of the EU'	
first	
Secondly th	ird
ated verification of a traveller's identity (for both citizens and non	
•	
•	

е	pass	port

refugees from physically reaching the EU. It's not surprising that asylum applications in EU countries ECRE's Secretary General Bjarte Vandvik said: "Whilst Europe's

reach the EU's territory." The European Agency for the

Hague programme

Issues in Identity Technology: Privacy, Balance and Proportionality

eme positions stating "Nothing to Hide, Nothing to Fear" from surveillance technologies emergence of an "Orwellian" surveillance state utilising these same technologi

	EU citizen's and stakeholders responses and
documents, often but not always associated with the he emphasis has been on what common Eu	
resources as well as perhaps more importantly a loss	in trust and confidence in political actors'

tizen's DNA w	as like	wise a	policy

ongoing negotiations and contestations as to what constitutes a 'private' life or space. This process

important element to an individual's id

 $^{{\}bf 8}$ 'Brown apologises for records loss' BBC News, 21 November 2007

 $^{{\}bf 9}$ Most importantly the 1995 Directive 95/46/EC on the protection of personal data

¹⁰ This growing concern over issues of privacy has also been stressd by others. See for example Smith, Milberg and Burke (1996)

[&]quot;Information Privacy: Measuring Individuals' Concerns About Organizational Practices" MIS Quarterly, 20(2)

 $[{]f 11}$ Bennett 'Regulating Privacy: Data Protection and Public Policy in Europe and the United States' (1992)

informational privacy alone' is attributed to the 1890 article by Warren and Brandeis which itself was a respon	to 'be left se to
	cale also de oute
unauthorised access to one's home) but also as well to the personal spaces associated w or bodily functions (the 'naked' scanner controversy illustrates these notions of privacy).	•

 $_{12}$ Clarke "Introduction to Dataveillance and Information Privacy" (1999]; Turkington "Legacy of the Warren and Brandeis article: the emerging unencumbered Constitutional right to informational privacy" (1990)

 $[{]f 13}$ Warren & Brandeis "The Right to Privacy" Harvard Law Review, December 1890

 $_{14}$ Friedman "Privacy and Technology" Social Philosophy & Policy, Volume 17, 2000; Bennett "Visions of Privacy" (1999)

 $_{\mbox{\scriptsize 15}}$ Windley "Digital identity" (2005); Lyon (eds) "Surveillance as Social Sorting" (2003)

 $_{16}$ Lyon (eds) "Surveillance as Social Sorting" (2003); Lyon "Surveillance Studies: An Overview" (2007)

removed even if the individual's concerned were later found to be innocent of any crime. This clearly
'The Court agrees with the applicants that at least the first of these purposes is worded in It reiterates that it is as essential, in this context, as in telephone tapping, secret surveillance and covert intelligence-gathering, to have clear, detailed rules governing the scope and application of measures, as well as minimum safeguards concerning, inter alia, duration, storage, usage, access of third parties, procedures for preserving the integrity and confidentiality of data and procedures for its destruction, thus providing sufficient guarantees against the risk of abuse and arbitrariness'
'An interference will be considered "necessary in a democratic society" for a legitimate aim if it answers a "pressing social need" and, in p
for conformity with the requirements of the Convention'
Technological Case Studies: Illustrations of Problematic Identities

The Schiphol Body Scanner			
their clothes or underneath their clothing	:. The technology's ac	dvantage it is claimed is	s that instead of
	he scanner's impact	on privacy and importa	antly on human
			be bomber's
of 'naked' bodies outside of the very spec	ific settings of Amste	erdam, Schiphol airport	and perhaps

personnel would have access to 'naked'
EURODAC , Schengen Information System, SIS2
acquis
_
migration. It is clear though that there has been a 'securitisation' of these debates which has had
'GÉANT – data sharing driver for Europe's digital economy' (2005) Public Service Review European Union,

Otjacques et al. 'Identity Management and Data Sharing in the European Union' (2006)
Professor Ole Waever coined the concept of 'securitization' in 1995. See Waever "Securitization and Desecuritization" in Lipschutz (ed) On Security (New York: Columbia University Press 1995)

this represents, and since a person's biometric features are a part of his or her body, they will always
with biometric identifiers in third country nationals' visas and citizens' passports. It proposed to introduce biometric data into travel documents in order to
24 September 2003
8 June 2004
13 December 2004
28 December 2004
28 February 2005

Citizens' Freedoms and Rights, Justice and Home Affairs (LIBE), February 2005,

be set up is an automated border control system enabling the automated verification of a traveller's

UK National ID Card

government's agenda for securing the UK's borders. Indeed a further scheme has a planned with a number of 'beacon' areas identified, including for example, Manchester, where
within industry and government) detailing and examining individuals' experiences of being users of
Dutch Passport

(e.g. duplicate check).
(

of potential actors, being in the act, "

,,

prevalence of citizens' concern over issues related to privacy and data protection

citizens' being concerned with privacy from 55% to 35%

0 1		1.51	
Concl	usions	and Dis	cussion

- 1. The variety of definitions and meanings of Identity.
- 2. The varied purposes and functions of Identity.

3. The division between Identity and Identity Polices and the use of technologies.

4. The historical social, cultural and political contexts of Individual Identity and Identification.
5. The current social, cultural and political contexts of Individual Identity and Identification
5. The current social, cultural and political contexts of malviadal identity and identification

AGENDA

Framework and Objectives of the Workshop	
te a 'sa	fe' environment foi
biometrics at the 'border' in terms of the management of individual Identity. Ar	reas of interest he

Borders, Trust and Citizens: Managing Identities in the EUs

[This section does not represent the views of the project consortia but is provided as an example of some potential issues that might serve as a platform for discussion]

The workshop's focus is on Individual Identities and the management o

the negotiations that take place around these processes at the 'border' or within the EU and

f Europe's borders more secure, efficient and responsive to the demands of an increasingly mo	bile
epresentation of which might be extreme positions stating "Nothing to Hide, Nothing to Fear"	from
an increased emergence of an "Orwellian" surveillance state utilising these same technologies	r in
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an increased energence of all of weinan surveinance state atmissing these same technologies.	S III
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EU citizen's

	ut not always associated w sis has been on what comr			
confidence in politic	cal actors' ability to tackle	issues and meet challer	nges in an effective mann	ner. In
citizen's DNA was lik	kewise a policy developme	nt with little dialogue o	or consensus building and	d the

Workshop Sessions

systems that 'join up' borders in holistic approaches to Identity management? What are the
What might be 'best practice' for Identity management? Is a holistic approach or blanket

Thursday 1.30pm-2pm 2pm-2.15pm **Session I- Identities at Borders** 2.15pm-2.45pm 2.45pm-3.15pm 3.15pm-3.45pm 3.45pm-4pm 4.25pm-5.30pm 7.30pm **Friday Session II- Trusted Identities and Trusting Policy** 10am-10.30am 10.30am-11am 11am-11.30am 11.30am-12pm 12pm-1.15pm 1.15pm-2pm Session III- Individual Identity, Technology and Policy: Risks, Issues and Challenges 2pm-2.30pm 2.30pm-3pm

3pm-3.30pm			
3.30pm-4pm			
4pm-5.30pm			

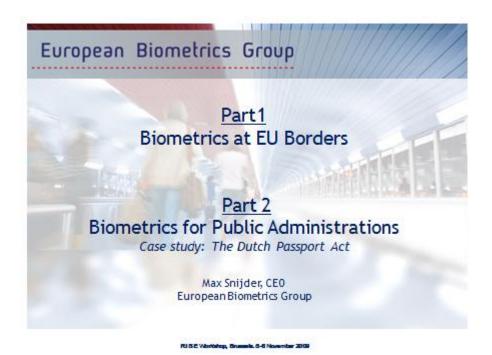
List of Participants

Speakers

External Participants

RISE Partners

PRESENTATIONS



European Biometrics Group

Part1
Biometrics at EU Borders

RISE Workshop, Brussels. 5-6 November 2009

Legal Base for EU Border Checks

- Regulation (EC) No 562/2006 of 15 March 2006: the Schengen Borders Code (SBC)
- Complicating factor:
- Not all EU Member States apply the SBC (ex. UK)
 Some non-FII Member States.
- Some non-EU Member States do (ex. CH).

 Different entry/exit border control requirements for different nationalities
 - EU nationals vs. non EU nationals

 - art. 7 SBCTCN enjoying the right of free movement, TCNVH, TCNVE



- different procedures + different role of biometrics in the border control process
 - identification, verification, authentication
 - security, efficiency, convenience

RISE Workshop, Brussels. 5-6 November 2009

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Types of 'identities' at EU borders

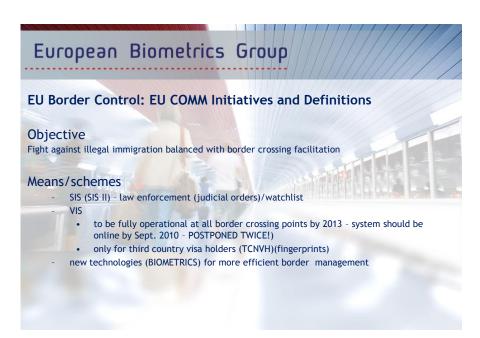
- **EU** citizens
- Visa waiver
- Third Country Nationals (TCN's)
- Asylum seekers
- Diplomats

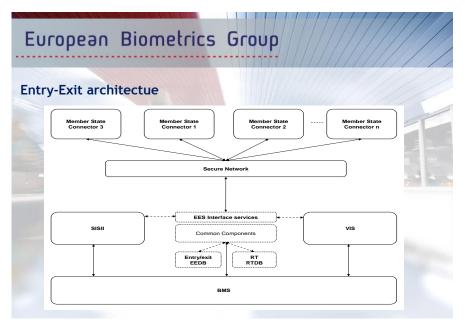
at airports:

- Non-Schengen

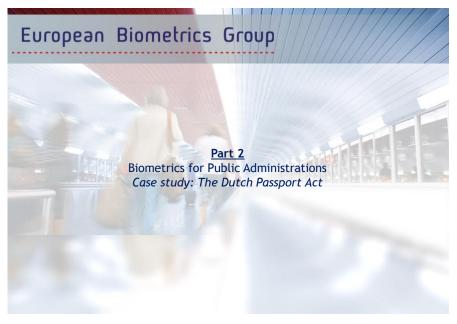
processing schemes at airports:

- Manual
- ABC
- RT
- Entry-Exit (TCN)





RISE Workshop, Brussels. 5-6 November 2009



RISE Workshop, Brussels. 5-6 November 2009

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"Dutch citizens naïve about their privacy" (Peter Hustinx, EDPS)

- Dutch citizens having concerns about their privacy decreased from 55% to 35%
- 'nothing-to-hide' theory
- other EU member states: increase from 80% to 90%

nrc·next Dinsdag 27 oktober 2009

'Nederlanders zijn naïef over privacy'

naïef over privacy*

BRUSSEL. Veel Nederlanders zijn
nalef over de bescherming van hun
privacy, oordeelde de Europese toenalen over de bescherming van hun
zichtbouder voor gegevenbeschernen gesche voor gegevenbeschernen gesche voor gegevenbeschernen de EU de bezorgdheid is toegenomen tot 80 ± 90 procent van de ondervraagde bevolking, is in Nederland als enige EU-land de laatste jaren die bezorgdheid juist drastisch
gedaald, van 50 naar 55 procent. "Nederlanders denken vaak dat het niet
uitmaakt, omdat ze niets te verbergen helben", zegt Hustinx. "Maar
dat is niet de vraag. Het gaat erom of
het systeem goed werkt; zonder lekken en fouten. De systemen werken
nog niet zo goed als nodig in een wereld die zo steunt op internet," (ANP)

Case Study: Dutch Passport Act - 1 -

- approved by the Senate on June 19th 2009
- based on European Regulation 2252/2004

Biometric data (face + 2 fingers + 2 extra fingers) will be stored as part of the central public administration database

Purpose of the database

- 1 preventing and combating fraud involving travel documents and the abuse of travel documents (e.g. duplicate check)
- 2 identifying the victims of catastrophes and accidents (1:n)
- 3 investigating and prosecuting criminal acts
- 4 investigating actions posing a threat to the security of the State and other important interests of one or more countries of the Kingdom or the security of powers friendly to the Kingdom

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Case Study: Dutch Passport Act - 2

Access to personal information

- Issuance of personal information under the provisions of the above mentioned purposes may be permitted to the following entities, as provided by a "General Administrative Order":
- government entities, where the issuance of the information is essential to the carrying out of their duties
- institutions and persons having a justified interest, as regards the performing of a legal obligation of identification, in the issuance of information contained in the travel document registers.

Remark

A "General Administrative Order" doesn't necessarily need to pass the Parliament or the Senate and thus might escape from a public debate

What does the Dutch DPA (CBP) say?

- the act does not comply with Article 8 of the ECHR
- alternatives are not discussed
- there is a risk of function creep and the Act does not exclude this
- due to technical shortcomings, large-scale application of biometrics has serious consequences for a large number of citizens
- the infrastructural facilities needed internationally to exchange information present security risks
- insufficient attention is given to the the consequences of a 'break-in' of the system
- insufficient analysis has been conducted intended to eliminate the objections expressed at home and abroad regarding abuse, inproper and unforeseen use

"In view of the above, this Act is, in the opinion of the CBP, a serious infringement of privacy that is not justified by the aims to be achieved by the Act. The CBP calls for the Act to be reviewed."

(source: CBP's opinion March 30, 2007 -- ref. z2007-00010)

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Observations 1

'Marper

The Dutch government does not consider the Marper case as being relevant to the Dutch Passport Act. Indepedent experts do not share that opinion.

Information to the citizens

The offical communication of the Government doesn't mention the purpose of investigating and prosecuting criminal acts (www.paspoortinformatie.nl)

Fingerprint collection has started 21st September 2009

Although the technical infrastructure has not been implemented yet and although the 3rd element the law has not yet been enforced, the temporarily decentral storage of the four fingerprints (at 600 municipalities), has already been started although central storage was claimed to be more secure.

"Swipe search (1:n) not possible/aloud"

You can only do a request with the fingerprint if you also have a picture and the sex of the suspect in order to establish the identity of a silent suspect. The suspect needs to be physically present.

Observations 2

Independent audit on security

"There is no independent party which is supervising the security of the (de-) central traveldocuments administration" (source: Ministry of Internal Affaires).

Future extension of use

The State Secretary explicitly leaves future extension of the use of the central biometric database open to next generation of politiciens (source: Senate Debate of June 9th, 2009)

Citizens have no choice

The law combines two different purposes which citizens need to accept both when applying for a passport, although only one of the purposes is connected to the passport. Refusing the (de-) central storage means you will not get a passport.

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Questions

- Is the privacy of the Dutch citizens at stake?
- What existing guidelines/instruments can be used to support simmilar decision making processes in other countries?
- What implications could the Marper case have on the Dutch Passport Act once brought to court?
- What could/should be the role of the European Commission, the EDPS and the European Parliament (now and after 'Lisbon')?



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MODELS OF POLICY MAKING

Dr. Paul McCarthy









WHAT IS POLICY?

- · A relatively open ended question?
- Policy as decisions, policy as processes?
- Policy as strategy, policy as tactics?
- A focus on specific issues? A holistic approach to general issues?
- · Policy as pro-active, policy as re-active?
- Policy supported, policy contested?
- Policy as public, policy as private, institutional or organisational

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The Focus of Rise

- Multi-national multi-lateral dialog which is sustained and on going.
- A focus on the ethical issues arising out of developments in the field of Security.
 Technology and policy.
- Specific interest in developing dialog between the EU and Asia.

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Sources of Policy

- · In terms of public policy
 - Member States
 - EU, Commission and Parliament
 - European Court of Human Rights
 - Statutory, non-statutory regulatory bodies at different levels.
 - Need to acknowledge the broad range of potential stakeholders influencing or influenced by these policy sources.

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Conflicts

- The above mentioned sources of policy are not often in unison, ranging from complete opposition through to hidden tensions!
- Arguably Security policy is an area where divisions are even more pronounced! Sources of policy are often bypassed, excluded (EDPS).
- If this is the case then the exclusion of stakeholders from the setting of policy is relatively easy to understand!
- How as a project can we encourage stakeholder involvement, and create a framework for dialog between the sources of policy relevant to security.

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Tentative Suggestions

- · 3 workshops, each with a report.
- What format for this report? Its objective? To set a template for participation and contribution to the multistakeholder conference?
- Can we represent all views? What methods to use for those whose viewpoints are not represented, or are excluded.
- Should we only highlight consensus? If one can even be achieved, or report on conflicting views to the same degree

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Tentative Suggestions- II

- Using the report as a platform to generate stakeholder involvement in contribution to the conference.
- Utilising the conference as a sounding board to re/present stakeholder views on key issues.
- Report to be driven by seeking the views of stakeholders!

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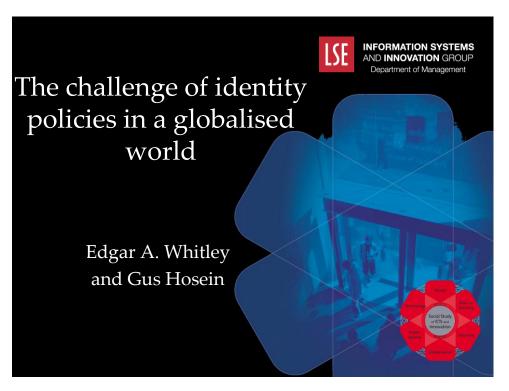
The support of the Economic and Social Research Council (ESRC) is gratefully acknowledged. The work presented forms part of the programme of the ESRC Genomics Network at Cesagen.



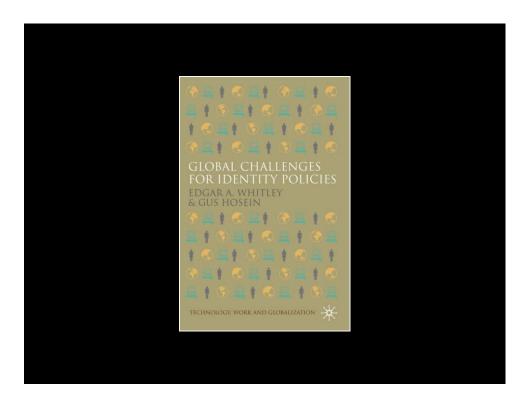












Uses of 'identity'

- Proof of identity
- Access to government services
- Combating terrorism
- Public administration
- Immigration control

Identity cards or identity policies?

Choices

- About the kinds of technologies to use
- About the role of the private sector
- About the balance between the rights and concerns of the citizen and those of government

Applications

1: Proving age

• Sita's gone out with a group of friends after college. They're all celebrating and Sita offers to buy a round. When she gets to the bar the barman asks for proof that she's over 18. Sita laughs and says she's 19, but the barman is new and demands proof of age. Sita digs in her bag and pulls out her identity card. She hands it over which confirms that she is in fact 19. As she puts the card back in her purse she is relieved that she no longer has to hand over documents with her address on them to prove her age.



Minimal disclosure of data

• Can data on identity card be used to uniquely identify someone (e.g. allow access to their birth certificate)?

Technological alternatives exist

- Based around minimal disclosure
- E.g. Birch DGW (2009) Psychic ID: A blueprint for a modern national identity scheme Identity in the Information Society Open Access Journal Archived at http://dx.doi.org/10.1007/s12394-009-0014-6

2: Policing

• Match biometrics against record of unmatched crime scene prints

3: Immigration control

	Current Categories	6 January 2010 (ubject to Parliamentary approval)
Category	Overview	Category	Overview
Spouses, civil partners, unmarried or same-sex partners	These applicants, who apply on form FLR(M), continue to enrol biometrics to apply for an identity card for foreign nationals as part of their immigration application (since 25 November 2008).	Skilled Workers	General and Intra-Company Transfers under Tier 2 of the Points Based System.
Students under Points Based System Tier 4 (General) and Tier 4 (Child)	Student categories apply under Tiler 4 of the Points Based System from 31 March 2009 (excludes student visitors). Students who applied on form FLR(S) since 25 November 2008 (excludes student visitors).	Ministers of Religion	Ministers of Religion under Tier 2 of the Points Based System.
Postgraduate doctors and dentists	These applicants did not apply on form FLR(S), but from 31 March 2009 apply under PBS Tier 4 and must enrol biometrics	Sports Persons	Sports Persons under Tier 2 of the Points Based System.
Academic visitors granted leave for a period exceeding six months	The total stay in the United Kingdom is more than six months, up to a maximum period of 12 months (from 31 March 2009)	Dependants	Where applicable under the immigration rules applying at any time from this date when the main applicant is covered by scheme.
Visitors for private	Where the applicant is required to extend their stay in the United Kingdom so that they		
medical treatment	are able to complete private medical treatment (from 31 March 2009).		
Domestic workers in a private household	Applies to overseas domestic workers who have accompanied a person entitled to live in the United Kingdom and are applying to extend their permission to stay in the country based upon their employment as domestic workers (from 31 March 2009).		
United Kingdom ancestry	Covers people who are Commonwealth citizens, have a British grandparent and can demonstrate a link with the United Kingdom (from 31 March 2009).		
Retired persons of independent means	No longer open to new applicants, but where a person is already in the United Kingdom under this category they may extend their leave on the same basis. Persons aged over 60 with substantial means to support themselves from 31 March 2009.		
Sole representatives	These are overseas employees recruited by an overseas company to act as their sole representative in the United Kingdom (from 31 March 2009).		
Transfer of conditions	Not an application made under the immigration rules, but those applying while in the United Kingdom for a transfer of existing conditions from a passport or other such document will also receive an identity card instead of a stamp or vignette, if their application is successful (from 31 March 2009).		
Dependants	Dependants of the above categories where applicable under the immigration rules, applying at same time (from 31 March 2009).		

Joined up government

• Requires correct list of, e.g. registered educational institutions

Why is this happening?

Lack of understanding

- Trusted identification
- Trusted authentication
- Relying parties
- Levels of risk

The implementation challenge

- Which biometrics?
- What kind of database?

Explanations

- Policy laundering?
- The card cartel?
- Imaginary technologies?
- Limitations of legislative scrutiny of technological schemes?

Contact details

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http://identityproject.lse.ac.uk

Change and Continuity in the Techniques and Technologies of Identification over the Second
Christian Millennium
Edward Higgs (History Department, University of Essex, UK)

I am going to define 'techniques and technologies of identification' in a very broad manner, as those

Note here the use of the term 'person', which can mean both the individual human body and the ossible in a society. The term 'person' after all comes from the Latin 'persona', the mask worn by actors in a play. On a day to day basis we all play lots of different roles,

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– the provision of 'proof' to the state Personally I don't think that mobility itself has much to do with t The Presentation of Self in Everyday Life offman's

I now want to look at the three sorts of personality I've outlined in a little more detail to see how t

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'to be like' became 'to be part of'. As a result, the impression of the owner's

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Seals could even speak in the first person with inscriptions such as TEGO SECRETA FRANGE L[EGE] ('I cover secrets. Break [me and] read').

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So why might the ability to sign one's name have replaced the use of the seal?

ability of the seal to 'embody' the person declined in Reformation England along with the

e Roman Catholic Church's belief in

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is development in terms of the 'importance progressively accorded to the singularity of the subject', and the development of individualism from the sixteenth century onwards. One might see this in terms of either the development of 'possessive individualism', or of

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Here is the comedian Reg Varney using the first British	ATM at Barclay's in 1967.
the army number of the AMT's i	Barron. His wife told him she couldn't
however, one had to prove that one had a 'settlement'	in a parish, through birth, marriage, or
	to obtain a 'Life Certificate'
This 'recommender' system can still be seen in the requ	uirement for someone of a particular rank to

Increasingly documentation, whether official or communal, came to replace the 'reco	mmender'
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_	
_	
Under the Old Poor Laws, the migrant poor, or 'vagabonds' were branded with a 'V', o	or burnt
Sunday with his followers crying, 'Holy, Holy, Holy', thus re enacting Jesus's entry into and claiming that 'Christ was in him'. Here is Nailor being placed in the stock, bored t	
ed on the forehead with the letter 'B'.	
	-
Instructions for classif	vina and
deciphering finger impressions and for describing them with sufficient exactness to en	_

 $comparison\ of\ the\ description\ with\ the\ original\ impression\ to\ be\ satisfactorily\ made\$

possibility of fingerprinting all pensioners but the idea was rejected as too 'Prussian'. The proposal

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