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Protecting personal data in wartime: The destruction of the alphabetic tabulators in Oslo

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ABSTRACT

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As a contribution to this special issue of CLSR, Jon Bing offers a unique wartime account of one of the earliest attempts to prevent 'online processing' of personal data by the occupying authorities for oppressive purposes.

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1. Operasjon Weserübung: the occupation of Norway

The background to the small tale of this essay is the drama of the Second World War.

German war ships put to sea on 3 April 1944, Denmark and Norway were occupied in what was known as Operasjon Weserübung. On the morning of 9 April 1940, the German ships sailed up the fjord to the capital, Oslo. The ships had to pass the old fort Oscarsborg, where the torpedo battery constructed in 1901 was fired and actually sank the German flag ship, *Blücher*. This bought Norwegians some extra time, the king and the government fled before the Germans marched into the city. There was sporadic fighting as the king and the government travelled north. The battle of the city of Narvik is well known – the city was originally invaded by 10 German destroyers and 2000 Austrian soldiers. For two months, French, Polish and Norwegian soldiers pressed the Germans towards the Swedish border (Norway is exceptionally narrow in this area), and three sea battles were fought. The city was taken back at the end of May by the French foreign legion and a Norwegian battalion, the first defeat of the German army during the war. But the victory was short lived; the Norwegian capitulation was signed on 10 June 1940. Three days earlier, the cabinet had decided that the king, the crown prince and the government should move to London. Narvik along with several other cities were totally destroyed.

The German occupation force was of approximately 400,000 soldiers. Norway had at this time three million inhabitants. The land area is 304,280 km², which is approximately the same as Poland. This area is rather inefficiently designed as a thin strip stretching approximately 2000 km from 60° to 70° latitude north. Pivoting the country around its southernmost point will actually put the other end halfway down the Italian peninsula. The coast is indented by numerous fjords and shielded by shoals of islets, and is free of ice throughout the winter due to the Golf stream sweeping the length of the country. The importance for a navy, giving access to the North Sea and the Northern Atlantic Ocean, is obvious. The case of Narvik may illustrate this from Narvik, Sweden was exporting iron ore from the rich mines in the north.

On 9 April 1940 the former minister of defence, Vidkun Quisling, forced entry to the National broadcasting company and declared himself prime minister, an act which turned his last name into a synonym to "traitor" even in the English language. This did not really tally with the plans of the Germans; they wanted the old government to ease the transition to a new rule. But when the Norwegian government refused to capitulate at once, the Germans somewhat reluctantly acknowledged Quisling. He was shortly afterwards replaced by an Administrative Council named by the Supreme Court on 15 April 1940. The presidency of the Parliament started negotiations with the occupation authorities, which sought to establish a government which could conclude a peace treaty

with Germany and govern under the reign of the occupation authorities. The King responded in a radio address from the BBC that he would not co-operate to a system contrary to the Constitution and forced upon the people. The head of the civil German administration, Richkommissär Josef Terboven, declared on 25 September 1940 that the negotiations were concluded and that the king and government had been dismissed. All political parties except for the National Coalition (Nasjonal Samling, NS) of Mr Quisling, was prohibited, and Mr Quisling was, on 1 February 1942, named head of a commissariat government.

This, perhaps, is sufficient background for this small essay. For five years Norway was governed by the German occupation authorities and the stooge government of Vidkun Quisling. Obviously, it was a time of oppression. There was resistance, but there were also those who agreed with the politics of the Nazi. The resistance took many forms. The London government directed military operations in Norway, behind enemy lines. Some of the operations have become well known, as the sabotage of the heavy water facility in Telemark essential for the development of a German atomic bomb. There was also a civil resistance movement. And there were tensions between different elements in the resistance. The complex details are analysed and discussed in the vast volume of the post-war literature. In this essay, no attempt will be made to give a general picture of the developments. It will be sufficient to give general and diffuse impression, a background for a society where the occupation forces always were present in abundance, where Norwegians would be imprisoned on suspicion of resistance; often tortured and often sent off to German prison camps. And where there were "collaborators" ready to disclose those in opposition to the Nazi regime.

Among the episodes in these dark years, one is of special interest for data protection. Towards the end of the war, there was rumoured that young males would be ordered to German war service on the Eastern front. The individuals would be identified using the records of what was known as the Labour Service, which would be processed by punch cards machines. To avoid this, the machines were destroyed.

This has become a reference in the discussion of the legal policies of data protection; an example of a file established for a legitimate objective being used for a radically different purpose. It has been used to illustrate why storing of personal data itself is a risk that one cannot rely on the authorities to follow the law of the land, as the authorities themselves may not be legitimate.

The episode is well known. But it has not been described from the perspective of the processing of personal data. Originally, the author had the limited ambition of lifting the facts out of the secondary literature for a condensed reference. But it turned out that the secondary literature had been written in a different way and the details of the processing of data had been glossed over.

Believing that the episode is important for the national policy discussion, the author therefore proceeded to other sources, also the primary sources still available – including interview with Gunnar Sønsteby, who actually led the sabotage action towards one of the punch card machines in 1944, and a legend in the history of the resistance movement. This

English version of the essay is written in understanding with the editors.

2. The Labour Service

The episode which interests us is part of a larger story about the Labour Service. It concerns corruption and the attitude and actions towards the Service by the resistance movement. This story starts before the war, and develops through the five years of occupation. The action towards the automatic tabulators is just one episode in this prolonged story.

The Labour Service had been established in the 1930s. Youths were organised for summer camps, working on social projects – they would build or maintain roads, dams and other installations important for society. The Administrative Council which initially was given authority to govern the occupied country was itself not a Nazi organisation. The Council re-established the Labour Service in the summer of 1940 encouraging youth to serve the country by participating in construction and agriculture work.

The Labour Service, in the beginning, retained a certain degree of legitimacy. But it soon became a way of recruiting soldiers for the German war effort. Soldiers had to be recruited from the occupied territories, also from Norway. But the hope for volunteers was modest: of the 45,000 members of the NS, only 6000 were members of the youth organisation. It was not realistic to base recruitment of party members. If a large population was enrolled for other purposes, they could more easily be made available as military personnel at a later stage.

The objective of the Labour Service was gradually aligned with the German interests. Nazi greeting was introduced in 1941, the same year it was authorised to recruit persons by force to work the fields and the forests. The purpose was to direct the work force for tasks important for the occupation authorities, for instance German military constructions. In 1941–1943 altogether 30,000 persons were distributed on 50 camps throughout the country (Fig. 1).

The civil resistance movement had not established a consistent attitude towards the Labour Service. In 1942, Rechkommissär Terboven was given to understand that it might be necessary to use some pressure to recruit personnel, for instance limiting support to the jobless and confiscating ration coupons. And celebrating his first year as head of government, Mr Quisling gave, on 1 February 1943, an address in which he indicated the possibility of drafting a Norwegian work force, announcing the adoption of an "act on national work effort" (22 February 1942). A telegram was communicated to der Führer Adolf Hitler by Quisling and Terboven, which praised the heroic fight of the sons of the German people at Stalingrad as a "signal heard and understood in Norway".

In a proclamation of 9 March 1943, the constitution was cited. Provisions in the constitution set out the obligation of a citizen to defend his country, and in sect 22 there is a reference to "Line Troops", the 12 classes aged 21–32. By parliamentary decision the "Line Troops" could be used abroad. The proclamation was perceived as a threat to use Norwegians in German services.

The first stage was the registration of the work forces, a task which had to be concluded by 22 March 1943. But there

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