

Contents lists available at [SciVerse ScienceDirect](http://www.sciencedirect.com)

Studies in History and Philosophy of Biological and Biomedical Sciences

journal homepage: www.elsevier.com/locate/shpsc

Performing the Union: The Prüm Decision and the European dream

Barbara Prainsack^{a,*}, Victor Toom^b^a Department of Sociology and Communications, School of Social Sciences, Brunel University, Uxbridge, Middlesex UB8 3PH, UK^b Northumbria University Centre for Forensic Science, Newcastle upon Tyne NE1 8ST, UK

ARTICLE INFO

Article history:

Available online 26 September 2012

Keywords:

Prüm Decision
 Transnational bioinformation exchange
 Apparatus
 European Union (EU)
 Performativity
 Stories

ABSTRACT

In 2005, seven European countries signed the so-called Prüm Treaty to increase transnational collaboration in combating international crime, terrorism and illegal immigration. Three years later, the Treaty was adopted into EU law. EU member countries were now obliged to have systems in place to allow authorities of other member states access to nationally held data on DNA, fingerprints, and vehicles by August 2011. In this paper, we discuss the conditions of possibility for the Prüm network to emerge, and argue that rather than a linear ascent towards technological and political convergence and harmonisation, the (hi)story of Prüm is heterogeneous and halting. This is reflected also in the early stages of implementing the Prüm Decision which has proven to be more challenging than it was hoped by the drivers of the Prüm process. In this sense, the Prüm network sits uncomfortably with success stories of forensic science (many of which served the goal of justifying the expansion of technological and surveillance systems). Instead of telling a story of heroic science, the story of Prüm articulates the European dream: one in which goods, services, and people live and travel freely and securely.

© 2012 Published by Elsevier Ltd.

When citing this paper, please use the full journal title *Studies in History and Philosophy of Biological and Biomedical Sciences*

1. Introduction: Beneficial technologies

We will start with a story. This story has been told before, and it keeps being re-told regularly when the topic of forensic DNA databases is discussed. The particular version of the story presented here was included in the 2007–2009 annual report of the national DNA database (NDNAD) of England and Wales:

Steve Wright was sentenced to life imprisonment in February 2008 for the murder of five prostitutes in Ipswich in December 2006. In 2003, Wright had been arrested on suspicion of stealing a small sum of money while working as a hotel barman and a DNA sample taken from him. He was subsequently convicted of theft. When the five prostitutes were murdered within a very short space of time, the police were able to recover samples from one of the bodies which were sent for analysis and

produced a match with Wright's DNA profile. Wright was subsequently charged and convicted of the five murders and sentenced to life imprisonment. If he had not been identified by his DNA, he might have gone on to commit even more offences.¹

This 'official' story—though not the only one that could be told about the case—has become a 'founding myth' for forensic DNA profiling and databasing as a technology for solving crimes.² Its success results from the interplay of several factors, including mundane ones such as influential authors having told this story and their readers having served as multipliers. Yet it is arguably also the particular narrative of the story, and the role ascribed to the technological tools, which accounts for its success. As policy studies scholar Dvora Yanow argued, 'humans create myths as an act of mediating contradictions'.³ A myth 'is a narrative created and believed by a group of people which diverts attention from a puzzling part of their

* Corresponding author.

E-mail addresses: barbara.prainsack@brunel.ac.uk (B. Prainsack), victor.toom@northumbria.ac.uk (V. Toom).¹ NPIA (2009), p. 8.² Bell (2009) and Toom (2011).³ Yanow (1996), p. 189.

reality'.⁴ Myth creation is therefore not to be understood as an intentional process but instead as the emergence of a narrative that will obtain a dominant position in the discourse on a particular topic.

With respect to the account of Steve Wright's conviction, the authors of the NPIA report clearly did not 'make up' the story, but their account is structured in a particular way. The authors highlighted certain elements of the case and put it together in such a manner that a coherent narrative emerged. They arguably did not do so to change the 'true' story, but because they focused on what they considered the essentials. What particular narrators consider essential, in turn, depends on their frames of reference; in the words of policy analyst Charles Herrick, the 'narrative itself establishes and warrants the validity and utility of its constituent elements'.⁵ For example, if our frame of reference is exonerating the wrongfully convicted, we will see different elements in a given setting as relevant than in a scenario where our primary frame of reference is, for example, cost containment. It is in this sense that myths are constructed, not authored; their construction and maintenance are continuous collective endeavours of sense-making. Myth-creation typically does not merely serve the vested interests of certain stake holders, but it also bridges—as Yanow pointed out—seeming contradictions or inconsistencies in a given situation; for example, that the good of crime control can conflict with the good of protecting individual freedom and privacy. Myths 'are designed to explain what we do not know and cannot know absolutely, to block further inquiry and redirect our attention, to enable us to temporarily suspend doubt especially in the face of contradictory information'.⁶

It is in this light that the story of Steve Wright's conviction can be seen as a founding myth for forensic DNA profiling—as well as perhaps for the wider category of 'bioinformation' which signifies information based on the analysis of physical or biological characteristics of individuals, like DNA profiles and fingerprints.⁷ The story of Wright's conviction removes doubt and ambivalence about the usefulness of forensic bioinformation for the conviction of the guilty. In this story, the problem is one that has been created in the social sphere and solved by technological means: technology helps to find truth and obtain justice. As such, it resonates with Jay Aronson's account of other stories in the field of forensic DNA technologies which represent a 'sanitized version of history with DNA as the triumphant hero';⁸ and it gives DNA technologies, to use Sheila Jasanoff's term, the air of a 'technology of hubris'.⁹ It underscores these technologies as objective and neutral methods for solving societal problems.

The tacit claim of the story—which is enhanced by its authoritative status—is the extension of the story line from the particular to the general: the more technology is available, and the more widely it can be applied, the more culprits can be caught and sentenced. In essence, the story tells us that in order to solve serious crimes, we need technology. All the possible problems and ambiguities inherent in the use of technologies—for example, that forensic DNA analysis always bears the risk of contamination, of human or machine errors, etc., and that even a DNA match between a suspect

and the crime scene does not automatically prove guilt—are absent from its narrative.¹⁰ It provides a firm basis upon which the systematic extension of DNA profiling—from its use on an *ad hoc* basis to the systematic storage of profiles in a centralised database—seems like the logical solution to a problem.

The continuous re-telling of the story of Steve Wright continues to provide support for what we call the 'spirit of expansion'. This spirit of expansion is the result of the foundational myth of DNA databasing; a foundational myth is therefore not only an idealised version of reality, but it helps to produce it as well. Such is in accord with what sociologist John Law calls the performative capacity of stories, as they 'make a difference, or at any rate might make a difference or hope to make a difference'.¹¹ The performative capacity of stories is illustrated with the following example: In the early 2000s, it had become increasingly difficult to keep records in the DNA database in England and Wales up to date. As a result, subject profiles that should have been removed from the database were still there, due to shortages in human resources needed to delete them. Then it happened that such a subject profile—which in line with regulatory provisions should have been removed—matched a crime scene trace. Because it was held illegally, it had to be considered inadmissible.¹² This situation—that law enforcement had to forego pursuing an investigative lead which could have led to the conviction of a perpetrator due to inadmissibility of the lead—contributed significantly to the decision of the British government to retain, in the future, *all* DNA samples and profiles obtained in accordance with the prevalent rules for taking samples in England and Wales (a decision which is currently in the process of being reversed, as a result of the *S & Marper v. United Kingdom Judgment* of the European Court of Human Rights).¹³ Although an improvement of administrative procedures, or an increase in resources devoted to database maintenance, would have been an equally plausible response to this problem, the preferred solution was an expansion of the scope of DNA profiles retained in the database with the aim, as declared by former Prime Minister Tony Blair in 2000, to 'hunt down criminals'.¹⁴ This is exactly congruent with the thrust of the narrative of the story of Steve Wright's conviction.

In this article, we are interested in how technological innovation, transnational regulation and institutional coordination make a difference, and in how they are productive for establishing a 'forensic culture'. Cole uses this term of 'forensic culture' to refer to the 'deliberate thinking about what sort of 'culture' will be conducive to producing whatever it is we want from forensic science'.¹⁵ Our aim in this paper is to enquire what kind of 'forensic culture' is being produced by the so-called Prüm Decision and the beginnings of its implementation (the Prüm regime).

The Prüm Decision is part of European Union (EU) legal framework regulating transnational exchange of bioinformation (and vehicle data) for the purpose of fighting transnational crime, illegal migration and international terrorism.¹⁶ We examine the Prüm regime as producing a forensic culture which is made up by laws, technologies, institutions, regulations, discourses, scientific statements

⁴ Yanow (1996), p. 191; see also Della Sala (2010).

⁵ Herrick (2004), p. 430.

⁶ Yanow (1996), p. 193; see also Westerlund and Sjöstrand (1979).

⁷ Nuffield Council on Bioethics (2007), p. 5.

⁸ Aronson's (2007), pp. 195–196; see also Edmond (2011), Lynch, Cole, McNally, and Jordan (2008).

⁹ Jasanoff (2003), p. 239.

¹⁰ Lynch et al. (2008) and Prainsack (2010).

¹¹ Law (2002), p. 39; see also Law and Singleton (2000) and Majone (1989).

¹² Williams and Johnson (2008), p. 84–85.

¹³ The Coalition Government in the U.K. declared its intention to adopt similar regulations as those governing the Scottish DNA database (Home Office, 2011). At the time of writing the fate of these plans were yet unknown. Regular updates can be obtained at the GenewatchUK website: <<http://www.genewatch.org/sub-563146>>.

¹⁴ Quoted in Williams and Johnson (2008), p. 86.

¹⁵ Law (2002), p. 39; see Cole (2012), in this volume.

¹⁶ Prainsack and Toom (2010).

Download English Version:

<https://daneshyari.com/en/article/7552890>

Download Persian Version:

<https://daneshyari.com/article/7552890>

[Daneshyari.com](https://daneshyari.com)