Article

Metternich 2.0.? Surveillance and Panopticism as modes of authoritarian governmentality in Austria

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Abstract

This paper follows the question if newly introduced surveillance laws and programmes have led to an authoritarian mode of governmentality in Austria in the light of a higher threat perception. As in other countries, terrorism and crime have undergone a process of securitization in Austria, leading to a higher desire for control in order to tackle those threats. However, while other countries have faced serious attacks on their soil, Austria remains free of substantial threats, yet still the government has introduced strict surveillance laws. Based on Foucault's concept of governmentality and Dean's assumption that governmentality can contain illiberal techniques and practices in liberal regimes, this paper gives an insight into the rationales behind Austrian surveillance governance.

1. Introduction

Surveillance in Austria is often connected to one name: Prince Klemens von Metternich, who was Chancellor after the Vienna Congress and established an authoritarian surveillance state in 19th century Austria. Metternich's system was a blueprint for an authoritarian, if not totalitarian surveillance state, with a high level of control over institutions, censorship and the collection of data of citizens in order to blackmail them in case they followed liberal ambitions. While limited through the non-availability of technologies at that era, the surveillance system in 19th century Austria comprised nearly all sectors of social and political life and painted a warning image of a surveillance state, which is prevalent in Austria to this date.

In recent years, the establishment of new security laws, especially the Police State Protection Law (Polizeiliches Staatsschutzgesetz, PStSG)¹ has drawn comparisons to the Metternich era. The chief editor of the liberal newspaper "Der Standard" called the former Minister of the Interior, Johanna Mikl-Leitner, "Minister Metternich" (Föderl-Schmid 2015) and a number of non-governmental organizations criticized the PStSG as the root of a surveillance state. The Green Party and the liberal NEOS party objected the law in Parliament and managed to limit the surveillance capabilities of the state, for example in terms of financial surveillance and the insight into bank accounts. Still, the law was heavily criticized as enabler of a deeper surveillance state. Also, current Minister of Interior, Wolfgang Sobotka, aims to extend surveillance without judicial ruling, effectively trying to establish a system of mass surveillance. In the newly issued working program "For Austria" ("Für Österreich," Republik Österreich 2017), which was formulated by the

¹ Bundesgesetz über die Organisation, Aufgaben und Befugnisse des polizeilichen Staatsschutzes (Polizeiliches Staatsschutzgesetz – PStSG) access via www.ris.bka.gv.at (accessed March 27th, 2017).

coalition government of the Social Democratic Party (SPÖ) and the Christian Democratic People's Party (ÖVP), which Sobotka is aligned to, the extension of the use of technologies for surveillance is prescribed as a main mean to reach interior security. As I will outline later, the strong securitization of a terrorist threat that happens through the formulation of stricter surveillance laws is an inherent legitimization to achieve mass surveillance in Austria.

Extensive surveillance programs such as PRISM or XKeyscore have raised the debate of the dichotomy between liberty and security, which includes the debate of surveillance as mode of authoritarian governmentality. In an era of global mass surveillance, the Foucauldian concept of Panopticism, as described in his work *Discipline and Punishment* (Foucault 1975), grows increasingly prevalent as description of the surveillance regime. In the Panopticon, surveillance is instrumentalized as the means of control over the behavior of a society. In a certain perspective, the Panopticon represents what Dean (1999: 155) defines as “*authoritarian governmentality*,” political rule through illiberal means. As surveillance inherently describes a sharp opposite to liberal government and is communicated to be used as an instrument of security, the question arises if the extension of surveillance represents an authoritarian shift in the government not only of security but also of movements and social. For this purpose, this paper will cover two different aspects of surveillance as a form of authoritarian governmentality. First, the question of how surveillance in theory represents a technique of illiberal government will be assessed. In this regard, I will also include the question of securitization as rationale for extended control and surveillance measures, as security often serves as an argument for additional expansion of surveillance. This discloses two dimensions of surveillance—it is either an instrument of control and social sorting or for achieving security, however, the second dimension can serve as a rationale for the first. These two dimensions will serve as a base for the assessment of a “surveillant assemblage” (Haggerty and Ericson 2000), which in a Foucauldian sense could be understood as a surveillant dispositive, which in consequence shapes the authoritarian governmentality through surveillance. Second, I will apply the model of surveillance as authoritarian governmentality on the Austrian case specifically, and will assess if the strict surveillance laws have introduced a mode of authoritarian government in a liberal democracy.

2. Surveillance and authoritarian governmentality

Before linking surveillance and securitization to authoritarian governmentality it is necessary to define what we mean by the latter. Authoritarian governmentality, as described by Dean (1999: 155), encompasses the “study of non-liberal and authoritarian rule both inside and outside [...] liberal democracies.” Governmentality, in short, describes various thought patterns, ideologies and mentalities of government, which for Foucault comprises different ways of conducting a person. (Foucault 1978/2004: 121) Any form of state government therefore means power over the individual citizen and the shaping of his self-government. Government is not reduced to state power, it is a set of practices how people, institutions and agents interact and shape actions and perceptions. This diverse set of involved actors, perceptions and mentalities creates what Dean (1999: 31) defines as “regimes of practices” in different areas of the political life. Surveillance is on the one hand a practice within the regime of security, but on the other hand such a regime as well, as surveillance encompasses various aspects of the social life. Governmentality should therefore describe which techniques and practices manifest a certain form of government. This facilitates the analysis of authoritarian modes of government within liberal democracies, as from a regime-classification point of view, liberal democracies often do not contain authoritarian elements. However, policies can convey authoritarian practices in the framework of liberalism. According to Dean, there are three different forms of “*non-liberal forms of political rationality*” (Dean 1999: 158), non-liberal forms that are an inherent part of liberal rationality, non-liberal forms that are legitimate within liberal political environments and non-liberal forms of rule. For the analysis of surveillance as mode of authoritarian governmentality the first two forms especially are of significance, so the analysis of authoritarian governmentality will focus on non-liberal aspects of surveillance within the liberal environment. On the one hand, this includes the analysis of surveillance as a rationality of securitization and the creation of a

permanent state of exception (Agamben 2005). On the other hand, it comprises the introduction of authoritarian modes of surveillance within the framework of the liberal democratic constitution of, in this particular case, Austria.

Security is often used as the main rationale for extending surveillance, so the construction of insecurity delivers a pattern of techniques for the governmentality of (in-)security. Especially the fight against crime and terrorism are frequently formulated as main threats to personal as well as national security, and therefore the combat against those requires extended surveillance. The most prominent examples in this regard pose the widespread surveillance through CCTV in London or the passing of the Patriot Act under the Bush administration after 9/11. Creating insecurity starts through securitization, or describing an issue as crucial to security. *“‘Security’ is the move that takes politics beyond the established rules of the game and frames the issue either as a special kind of politics or as above politics”* (Buzan et al. 1998: 23). Securitization, as a discursive practice, therefore describes the creation of a narrative that allows political measures beyond the defined political system and can incite a change of mode of government, or at least introduce additional techniques and practices that are not inherent to this mode. The analysis of surveillance as mode of authoritarian governmentality therefore does not only include the surveillance practices per se, but also discourses of creating insecurity and a state of exception, which Agamben (2005: 5) describes as *“the expansion of the powers of the government”* under the perception of instability. As securitization however only describes how security is constituted, but falls short of describing the construction of insecurity, this aspect needs to be implemented. In this context, the c.a.s.e Collective (2006: 457) maintains that insecurity is a result of the understanding of security within a society and describes *“policing insecurity as mode of governmentality.”* In addition, according to the c.a.s.e Collective (ibid.), the emergence of networks of security agencies leads to a struggle for monopolizing the definition of security as well as insecurity. For Béland (2007: 320), *“collective insecurity involves transforming personal or environmental matters into social and political issues.”* Insecurity therefore is a construct of individual fears that create a mutual understanding of risks and threats. Béland (2007: 322) states that collective insecurity is not equal to episodes of panic, as insecurity is perceived as perpetual structural problem. Resulting from this, I assume that securitization as well as the construction of insecurity creates a permanent state of exception which in consequence leads to modes of authoritarian governmentality, and surveillance is an instrument thereof. In this regard, it is important which techniques, practices and discourses surround surveillance and attach it to an authoritarian characterization.

In his conception of the Panopticon, Foucault (1975) describes a society within which fear has created this state of exception and therefore it underlies strict rules of movement, which are enforced through control and surveillance. This comprises all elements of surveillance as authoritarian governmentality: A threat is constructed and authoritarian practices lead to a form of social sorting. However, as Lyon (2007: 55) describes, postmodern surveillance extends beyond the mere control of objects that are constituted as threat, rather, surveillance comprises a variety of aspects of social life that exceed crime prevention and national security. One could also argue that through extensive securitization of terrorist threats post 9/11, every domain of social life has been securitized insofar that terrorism is perceived as a threat to societal security rather than merely national security. For Bauman et al. (2014: 123) it is however important to not reduce the debate on surveillance to totalitarian shifts, but to rethink practices of surveillance in regard of their interconnectivity and the self-exposure citizens produce through actions and practices. Ball (2009: 650) describes this step as *“soft surveillance”* a method of surveillance *“which gains compliance by persuasion, rather than coercion, but still denies the individual any meaningful choice in the matter, emphasizes the needs of the community rather than the rights of the individual and scans at a distance rather than crossing intimate body borders.”* This concept describes a mode of government, where individuals are socially sorted in order to achieve the needs perceived by those governing—which, as a consequence of securitizing discourses, can be providing security. As the need of the collective is higher prioritized in this aspect, every individual becomes a constant suspect and threat—which, in times of *“technologization of security”*

(Ceyhan 2008), leads to a technology-based panopticon, where control happens through networks and surveillance imagery.

This entire assemblage—discourses, social sorting procedures, threat formulations and surveillance techniques—form, as I argue the authoritarian dispositive of surveillance for security reasons. The perception of surveillance as a means of policing (in)security offers a rationale to introduce authoritarian measures, the augmentation of threats to individual as well as societal security increases the willingness of a society to adapt to increased surveillance measures. In this regard, it is important to understand surveillance as a “security practice,” which according to Balzacq et al. (2010) manifests in three aspects: first, the social and political environment, second, the creation of a social space within which practices occur, and third, the practice itself. Surveillance, in this regard, signifies a more widespread influence on the (in)security environment in general, therefore, it comprises more aspects than the simple application of technical measures.

3. The framework of surveillance in Austria

Contrary to neighboring Hungary, Austria has not faced tendencies towards illiberal modes of governing so far. Still, in political discourses there is visible appreciation for Hungary’s prime minister Orbán and his mode of governance, which could be interpreted as a fostering of illiberal thoughts within the Austrian government. The coalition between the Social Democrats (SPÖ) and the conservative People’s Party (ÖVP) has long dominated the Austrian political landscape, though serious clashes have led to a break-up of the coalition—with one of the main points of conflict being sharp critique of Minister of the Interior Sobotka by the Social Democrats. The understanding of surveillance and security differs within the two parties, however, the Social Democrats have supported laws introduced by conservative Ministers of the Interior, which is often reasoned through the consensus both parties follow within the coalition. Nevertheless, there have been only a few pronounced voices against stricter surveillance laws, especially from the Green Party, the liberal NEOS Party and the civil society, but also from the right-wing populist Freedom Party, which however is in favor of stricter security measures. There is criticism existent, however, it seems, surveillance is a viable, nearly uncontested instrument of government in Austria.

The discourse on the dichotomy between security and liberty started with the introduction of the PStSG in 2016 and the preceding debates that led to a significant reform of the law where the most controversial aspects were weakened or left out, for example certain professions such as journalists are protected from surveillance. In addition, the cases in which the government may conduct surveillance were drastically reduced. However, the law still contains a considerable strengthening of the security apparatus and provides it with various instruments and techniques of surveillance. The central change in the governmentality of security however is the framing of suspect individuals and the government of citizens, which is characterized by general distrust. The law enforcement’s intelligence agency, the Bundesamt für Verfassungsschutz und Terrorismusbekämpfung (BVT) is considerably strengthened through the PStSG, which affects the instruments and mentalities of surveillance through the shaping of the agency. The law allows early surveillance, the surveillance of close family members and the collection of positioning and communication data even if there is just a minor suspicion of terrorist or anti-state behavior. One of the major problematics was seen in the unclear definition of legal vocabulary, which could lead to arbitrary surveillance (Sterkl 2015). However, keeping the language unclear can also be seen as a technique of government in order to widen the perception of threats and therefore being able to establish a greater network of perpetual surveillance. Parliamentary debates and political discussions also highlighted the difference between the demands that the law should fulfil regarding security as well as the problems it poses for freedoms. While former minister Mikl-Leitner was convinced about the law’s advantages, Members of Parliament as well as civil society acknowledged that the law opened possibilities for wide-spread surveillance (Brodnig 2016).

A petition against the PStSG collected more than 30,000 signatures, which demonstrates a clear worry of the erosion of citizen's rights.²

The counter-terrorist motive and securitization of terrorist and anti-state movements is also the motive of the surveillance methods that are proposed in the government's agenda even though current Minister of the Interior Sobotka acknowledged that the threat level of terrorism has decreased. The controversially discussed methods in the program comprise the interception of conversations within cars, the interconnection of CCTV, increased surveillance of mobile phones and license plates as well as putting suspects under arrest without a court's decision (Republik Österreich 2017: 23). In addition, the package of security measures included extended powers for the military in the field of border surveillance, which represents a militarization of the surveillance apparatus. A long-standing debate revolves around the use of technologies in order to invade encrypted messaging services, such as WhatsApp, which would represent serious privacy infringements. Altogether, the instruments provided in the security package represent a large extension of surveillance, with critics bemoaning the authoritarian tendencies in these measures (Wimmer 2017). While the PStSG uses unclear language in order to facilitate widespread surveillance, the security laws provide authorities with techniques to conduct this surveillance. Investigating these techniques more closely, they provide a toolbox which is able to infringe privacy and frame critique as anti-state movement. Coupled with Minister Sobotka's ambition to limit the rights of protest and demonstration, this represents a sharp authoritarian shift in Austria's governmentality of security. However, there is widespread critique on the proposed security measures within parliament, as even the right-wing Freedom Party opposed to the measures,³ as well as within civil society, as another petition shows.⁴ This leads to the hypothesis for further research that even though legal and political means have been shaped in order to facilitate a surveillance state, parts of the political as well as the civil society actors object these developments and pose at least obstacles in an authoritarian turn. However, this opposition might be too weak, as the introduction of the PStSG shows.

The absence of threats however highlights the problematics with this debate, as surveillance is not primarily a measure to increase security, but to conduct social sorting, especially due to the attempted limitations of rights such as protest rights. In this regard, the illiberal character of surveillance policies becomes the dominant aspect and shifts governmentalities into an authoritarian direction. This also highlights the creation of a state of exception, which in the Austrian case has especially occurred in the course of the migration crisis, where subjective insecurities were transformed into collective insecurity through media and political discourses. This has opened a rationale for the introduction of surveillance measures in order to combat this collective insecurity. The social and political context of the interior security policies discloses the broader narrative of these measures—a rising level of insecurity and the consequential need to police this insecurity can serve as a rationale to establish modes of authoritarian governmentality. Extending surveillance therefore does not only mean to provide government with additional techniques, it also means creating an environment within which these techniques are functional. This is in line with the assumption of surveillance as a security practice, however, in the relative absence of threats, it is rather a political practice with security as a rationale, however an authoritarian effect.

² See <https://staatsschutz.at/en/>.

³ See <http://derstandard.at/2000061488532/FPOe-strikt-gegen-Bundestrojaner-OeVP-muss-SPOe-ueberzeugen>.

⁴ See <https://ueberwachungspaket.at/>.

4. Conclusion—Does surveillance in Austria represent a mode of authoritarian governmentality?

There is a clear cleavage visible in the approaches towards surveillance. Whereas the government sees the extension of control mechanisms as a necessity due to the increased perception of threats, opposition and civil society recognize the dangers to liberty and citizen's rights. This has led to a vital discourse in Austrian society about the threat emerging from increased surveillance. While the government, especially the People's Party, insists on the introduction of further security measures, coupled with the reduction of democratic rights, opposition rises from within as well as outside the political sphere. However, given the relative absence of security threats in Austria, the discourse highlights possible authoritarian tendencies that might stem from other issues, especially Austria's role in the migration and refugee crisis since 2015.

The surveillance techniques in Austria represent elements of soft surveillance, as especially community aspects are emphasized, also, elements of coercion are rather low, however still visible. The interconnection of movement-based data and communication-based data shows that there is a desire to draw images of social and societal life towards a control that exceeds threat prevention. Rather, it is visible how every citizen is securitized and perceived as possible suspect, the aspect of social control is central in governing surveillance in Austria. The unprecise legal formulations open a wider array of possibilities to put people under surveillance, therefore, this should be seen as government technique rather than as mistake.

While Austria is neither moving back into the dark ages of Metternich, nor is facing illiberal modes of government so far, interior security is the field where tendencies towards illiberal, or even authoritarian modes of government have risen. This lies well within the global trend of the post-9/11 security environment, however, the relative absence of threats shows a different governmentality in Austria that is more based on social control rather than on threat reduction. As social control is one of the main aspects of Foucault's Panopticon, this imaginary is at least partly useful to describe the governmentality of Austria's surveillance. However, it should be stated that it would be a premature assumption that the Austrian government is following an authoritarian agenda. Rather, this article highlights the effects of the intersection of security and surveillance on the relationship between government and society and how surveillance as a security practice has authoritarian side-effects. This also opens the debate on a more indirect mode of authoritarian governmentality, where authoritarian modes of government are introduced through not explicitly illiberal means of government, but rather through practices that render a society increasingly authoritarian.

To conclude, the combination of security, surveillance and authoritarian governmentality needs to be regarded further in the political development of liberal democracies, as within liberal democratic systems, interior security represents the issue area where modes of authoritarian governmentality are more strongly visible. The Austrian case highlights that in a security framework, aspects of social control can be introduced which proves problematic for liberal democratic governmentality. As there is substantial criticism in Austria, different governmentalities of interior security still exist, however, they seem to be quickly eroding under the changing circumstances. Investigating surveillance practices and discourses will also be central in the future in order to observe possible illiberal and authoritarian tendencies that have risen.

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