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## **Identifying Risks: National Identity Cards**

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*Wendy M. Grossman\**

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\* Wendy M. Grossman is a freelance writer, a member of the External Advisory Board of the AHRB Research Centre for Studies in Intellectual Property and Technology Law, and author of the books 'Net.wars' (NYU Press 1998) and 'From Anarchy to Power: the Net Comes of Age' (NYU Press, 2001). She writes a weekly column "net.wars", appearing on the Web at The Inquirer (<http://www.theinquirer.net>) and NewsWirelessNet (<http://www.newswireless.net>), and contributes to publications like the Scientific American, New Scientist, and the Daily Telegraph. An archive of the columns and her other articles, along with further biographical information are on her web site at <http://www.pelicancrossing.net>.

A remarkable change has taken place in Britain. Legislation to bring in the first national identity cards since 1952 has passed its second reading in the House of Commons, and forms a vital plank of the Labour government's plans for this Parliamentary session. Proponents argue that the cards – and, more important, the database behind them – will help combat terrorism, prevent benefit fraud, and streamline access to health and education services. Opponents argue that they will usher in a new era of total surveillance and permanently alter the relationship between citizen and state in this country.

As recently as a few years ago, the notion of requiring every citizen and resident to register for a national identity card was almost completely culturally and politically unacceptable. Successive governments claimed, as you will see, that ID cards commanded favour with a generous majority of the population, but even so they were considered so unlikely to pass a Parliamentary vote or be tolerated by the populace that they did not receive government backing. Blair's government, too, cites opinion polls indicating that popular approval of such a scheme is as high as 80% – but more significantly, both Labour and Conservatives are backing the National Identity Cards Bill, which is currently in the committee stage, having passed its second reading in mid-December. The Liberal Democrats are the only major party to oppose the cards. What changed? And what about that 20 % who are unalterably opposed to ID cards? What are their objections? Is it true that if you have nothing to hide you have nothing to fear? This paper looks at the social, technical, and practical arguments for and against ID cards.

As the cards – and the national database they represent – loom closer, the campaign against them is kicking into high gear. A similar effort to bring in national ID cards in Australia in the mid-1980s failed after protests from civil liberties groups. Could the same thing happen here, or will the Labour government succeed, in time for the next general election?

Though the situation in Scotland is going to be a little different than it will in England and Wales, you won't escape.<sup>1</sup> These will be national identity cards, and you will have no choice about getting one and registering in the national database if you apply for a passport or driving licence. However, the bill specifically states that whether the cards will be required to access devolved services will be for the relevant governments to decide. The best indication I've seen so far is that you will not need them to access health and education here in Scotland, at least under the present administration. You should not relax though. One of the stated objectives of bringing in the ID card is to cut down on benefit fraud and abuses of the system such as "health tourism". If England's health service requires a card and Scotland's does not, any health tourists coming to the UK would most likely go to Scotland – you would think. If Scottish services become overburdened, the pressure to extend the use of the ID card to health and other devolved services will mount. Of course, if it doesn't, then you have to ask what the ID card was good for in the first place. But as history shows, ID cards are 'beloved' of civil servants and administrators, who will always find another justification for them if the first twelve fail.

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1 See *The Scotsman*, "McConnell wins ground in ID cards battle", November 24, 2004 @ <http://news.scotsman.com/politics.cfm?id=1350242004> for a more detailed view of the Scottish situation.

**Countries with no ID card (yet):** the US, Australia, Canada, Ireland, New Zealand.

**Countries with voluntary ID cards:** Austria, Denmark, Finland, France, Greece (you must have the card but carrying it is not compulsory), Iceland, Italy (though you must carry some form of identification), Japan (adopted in late 2003; in the first year only 250,000 Japanese signed up for it), Norway, Sweden, Switzerland.<sup>2</sup>

**Countries with mandatory ID cards:** Belgium, Germany, Hong Kong, Luxembourg, Netherlands (as of 1/1/05 carrying is compulsory), Malaysia, Portugal, Spain, Turkey

Another piece of this puzzle worth a mention is the Children Act 2004 which seeks to create tracking databases for children in the interests of protecting them. The Children Act became law last November, and includes provisions for issuing children with numbers and tracking them through a database. A consultation on the use of databases to record sensitive information about a child just ended on January 19, 2005.<sup>3</sup> It is my belief that this part of the Children Act functions as a kind of insurance for the folks who really want a national identification system. We can stall, delay, and object as much as we like, but twenty years from now, when the current generation of babies become adults, they will think it normal to be numbered and have their lives recorded in shared government databases. They will probably be quite puzzled about the character's rage if they ever see *The Prisoner* when Number Six shouts, "I am not a number."

At this point, a brief summary of the history of ID cards in Britain would be in order at.

Most people begin with World War II, but I've seen a few references to an identity card issued to British subjects during World War I; these were discontinued in 1919. I've also seen a note that back in the 1920's, the Registrar General, Sir Bernard Mallet, proposed a population register with a linked ID card.

World War II is, however, the last time Britain had a national identity card; people believed they were necessary to prevent Nazi infiltration. Carrying the card became compulsory in 1939, but after the war the card was not immediately withdrawn.

In December 1950, a small businessman named Clarence Henry Willcock was stopped while driving in London by a police officer who demanded that he present his ID card at a station within 48 hours. He refused, and was prosecuted and convicted in the case *Willcock vs. Muckle*. He appealed and lost. Despite the outcome of the case, the then Lord Chief Justice Lord Goddard commented:

*...it is obvious that the police now, as a matter of routine, demand the production of national registration identity cards whenever they stop or interrogate a motorist for whatever cause... This Act was passed for security purposes, and not for the purposes for which,*

2 BBC News "Other countries' ID schemes", July 3, 2002 @ [http://news.bbc.co.uk/1/hi/uk\\_politics/2078604.stm](http://news.bbc.co.uk/1/hi/uk_politics/2078604.stm) Also "Identity Cards: Frequently Asked Questions", Privacy International, August 24, 1996 @ [http://www.privacyinternational.org/article.shtml?cmd\[347\]=x-347-61881&als\[theme\]=National%20ID%20Cards](http://www.privacyinternational.org/article.shtml?cmd[347]=x-347-61881&als[theme]=National%20ID%20Cards).

3 The consultation information is available @ <http://www.dfes.gov.uk/consultations/conDetails.cfm?consultationId=1280>.

*apparently, it is now sought to be used. To use Acts of Parliament, passed for particular purposes during war, in times when the war is past, except that technically a state of war exists, tends to turn law-abiding subjects into lawbreakers, which is a most undesirable state of affairs. Further, in this country we have always prided ourselves on the good feeling that exists between the police and the public and such action tends to make the people resentful of the acts of the police and inclines them to obstruct the police instead of to assist them...*

Goddard then refused to award costs against Willcock. These events are thought to have influenced then Prime Minister Winston Churchill's decision in 1952 to drop the card.

In the decades since, national identity cards have been discussed or proposed at least every few years, for a variety of stated reasons and at an ever-increasing cost. In the last ten to fifteen years the pace has quickened, with proposals coming up almost every year. Most of these, however, were private member's bills, not government initiatives. At the 2002 Privacy International public meeting on ID cards, Peter Lilley, the former secretary of state for social security noted that ID cards were unlike every other proposal the Cabinet had considered while he was in office. Most proposals, he said, took the form of, "Here is a problem. How can we solve it?" In contrast, with ID proposals, the question typically asked was what they could use the cards for. In other words, they were a solution in search of a problem – and a solution that was suggested every time there was a new Minister for IT. Because of this last fact, Lilley noted (as I have often suspected) that the apparent neatness of issuing every person with an identity document must appeal in some profound way to the Humphrey Applebys who are the government in residence. "You may think *Yes, Minister* is a comedy," he said. "I know it's a documentary."<sup>4</sup>

Let's take a more detailed look at some of the proposals:<sup>5</sup>

- According to documents just released to the National Archives under the 30-year rule, Harold Wilson's Labour government rejected the idea of ID cards in 1974, even though there had been recent IRA bombings in Guildford and Birmingham. Then Home Secretary Roy Jenkins called ID cards "expensive and ineffective"
- In 1978, the Lindhop Committee on Data Protection proposed a Universal Personal Identifier for all data users on all occasions, but again this was considered to be a "considerable threat to privacy, and perhaps the freedom of the private citizen".
- In 1988, the MP Tony Favell tried to introduce a Bill under the Ten Minute Rule to introduce a British ID card, to 'help in the fight against football hooligans' and 'crime in general'. The Bill was defeated by 172 votes to 114.

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4 Lilley repeated these points in an Observer op-ed, "ID cards – a dumb idea and dangerous too" *The Observer*, June 30, 2002 @ <http://www.guardian.co.uk/Observer/libertywatch/story/0,1373,746795,00.html> and <http://www.peterlilley.co.uk/speeches.php?action=show&id=353>.

5 Charter 88 1996 analysis @ (<http://www.charter88.org.uk/pubs/brief/idcards.html>) and Privacy International @ <http://www.privacyinternational.org/article.shtml?cmd%5B347%5D=x-347-61886>.

The Home Affairs Select Committee briefly considered and rejected the idea of ID cards.

- In 1989, Jacques Arnold, MP for Gravesham, attempted to introduce a Ten Minute Bill for a personal ID number for all those born after January 1, 1990, saying, "The card should carry no more than an individual's name, address, reference number, and photograph. There is no need for a smart card providing large amounts of...1984-style information...the card would not be an infringement of human rights." That same year, Ralph Howell, the MP for Norfolk, North introduced a private member's bill proposing a national ID card. The bill's stated purpose was to cut crime and football hooliganism; the approaching 1992 date when the borders within the European Union would open was also cited. As secondary reasons, Howell suggested that the card would assist in detecting social security fraud, help in the fight against drugs, truancy, under-age drinking, street crime, and illegal immigrants, and help prevent terrorism such as the then recent Lockerbie crash and assist in identifying victims of such events. In the Commons debate, Howell claimed that 63 percent of the general public favoured the card and estimated the cost of bringing in such a system at £350 million. The bill narrowly won the vote, 47 to 38, but the debate was adjourned because the majority was insufficient, and apparently never resumed. Hansard records that during the debate speakers talked of a "movement towards compulsory identity cards within a short time" and claimed that the majority of Conservative MPs were in favour of identity cards. "What rational person could oppose the bill?" asked Sir Rhondes Boyson, the MP for Brent, North.<sup>6</sup> It failed for lack of time – it passed its second reading with a vote of 47 to 38 but had to be held over because not enough members had voted.
- In 1990, the Association of Chief Police Officers declared it was no longer against machine readable ID cards. The Home Affairs Committee published a report, "Practical Police Co-operation in the European Community", favouring voluntary ID cards. In reply, the government considered that voluntary ID cards would not "benefit either the individual or the state".<sup>7</sup>
- In 1992, the government considered that a compulsory scheme would be too costly.
- In 1993, MP David Amess, (Conservative) MP for Southend West, tried to introduce the Voluntary Personal Security Cards Bill, under the Ten Minute Rule, to combat fraud, illegal immigration and terrorism.
- In 1994, Harold Elletson MP's Bill to introduce national ID cards failed by 113 votes to 89.
- In 1995, John Major's government issued a green paper consultation on identity cards. In early 1996, the then Home Secretary Michael Howard claimed that 64 percent of 2,500 respondents favoured an identity card, and that nearly 70 percent of businesses and other organizations were in support.

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6 Hansard extract of February 10, 1989 debate @ <http://www.privacy.org/pi/activities/idcard/uk/uk-id-debate-1989.html>.

7 "Mistaken Identity!" Charter 88, 1996 @ <http://www.charter88.org.uk/pubs/brief/idcards.html>.

The consultation paper had proposed four options: a voluntary identity/travel card; a compulsory ID card; a combined driving licence/identity card; or treating a photo card driving licence as an identity card. Tony Blair, at the 1995 Labour Party conference, opposing Michael Howard's ID card plan, said, "We all suffer crime, the poorest and vulnerable most of all, it is the duty of government to protect them. But we can make choices in spending too. And instead of wasting hundreds of millions of pounds on compulsory ID cards as the Tory Right demand, let that money provide thousands of extra police officers on the beat in our local communities."

- I find persuasive the argument friends have made that Labour is using ID cards to make the Tories look soft on crime in what everyone supposes is the run-up to a general election this May.
- In mid 1996, a report by the Government Centre for Information Systems (an agency under the control of the Cabinet Office) on introducing multi-purpose smart cards surfaced in a junkshop in North London; it showed that there were 22 ongoing inquiries into the matter in Whitehall in departments across government. The report estimated start-up costs at between £500 and £600 million, and thought a charge of £5 per person would be sufficient to pay for it.
- In 2001, Jack Straw suggested that wallet-sized ID cards could be issued if Labour won a second term, and could become the main identification in use in the UK. Straw said he was "talking at large"; ID cards did not form part of the Labour Party platform.<sup>8</sup>

The present proposals, which were first mooted shortly after the 2001 World Trade Centre attacks, are the most complicated and expensive yet. The National Identity Cards Bill<sup>9</sup> calls for the creation of a national register, which will give every British citizen and legal resident a unique number and store a panoply of personal details. Registration will be voluntary at first, but will become mandatory at some unspecified future date. However, the goal is 80 % penetration within five years of the first roll-out in 2008, and the government has repeatedly stated that carrying the card itself would not be compulsory. However, as the online IT news service *The Register* has pointed out, the government doesn't need to make it compulsory if the card becomes necessary for the myriad transactions of everyday life.<sup>10</sup>

The Bill currently lists something like 51 categories of information the register could collect, including name, address, previous addresses, biometric identifiers such as facial scans and fingerprints etc. When we talk about these proposals, we talk about an ID card. But the ID card is more like what in movie circles is known as a "McGuffin", a term used by the late director Alfred Hitchcock to describe a gimmick to drive the plot. It's a sort of decoy. The real issue is the database, what information

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8 *Daily Telegraph*, "Anger at Straw's Identity Plan", June 1, 2001 @ <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2001/06/01/niden01.xml>.

9 For a skeptical but detailed analysis of the legislation, see *Privacy International* "The UK Identity Card Proposals", , November 29, 2004 @ <http://www.privacyinternational.org/issues/idcard/uk/id-card-review-1204.pdf>.

10 *The Register* , "Everything you never wanted to know about the UK ID card," May 5, 2004 @ [http://www.theregister.co.uk/2004/05/05/complete\\_idcard\\_guide/](http://www.theregister.co.uk/2004/05/05/complete_idcard_guide/).

will be in it, how that information will be used, who will have access, and how the unique numbered identifier will be used. Remember that also under creation is a giant DNA database, made up of samples that under the 1994 Criminal Justice and Public Order Act may be collected whenever someone is arrested; some police officers have recently argued that samples should be collected from everyone.<sup>11</sup> In the 2004 case *Regina v. Chief Constable of South Yorkshire Police*, the Lords ruled that the police could keep DNA samples of everyone who has been arrested, even if they were not subsequently charged. As of November 2004 the database contains upwards of three million DNA samples. The EU is also under pressure from the Council of the European Union to make fingerprints mandatory in all passports.<sup>12</sup>

Registration will require every one of Britain's 60 million population to go to a government office for a personal interview and to give a fingerprint, facial scan, and whatever other biometric identifier they decide upon. The bill currently calls for a £ 2,500 fine if you refuse to register and two years in prison if you refuse to pay that fine. The bill also lists a £ 1,000 fine every time you fail to notify the government of a change in your personal details, and another £2,500 if you fail to turn up for enrollment. All of this is the reason that the No2ID campaign,<sup>13</sup> which now has 20 local groups, believes that once the details are understood a lot of people will be radicalized in exactly the same way they were when the Conservatives attempted to impose the poll tax – I beg its pardon, the "Community Charge" – in the Thatcher era. By comparison to all this, the physical card itself is a minor nuisance, even though it will be expensive.

Its worth going into a little bit of the history of this bill, which was one of David Blunkett's pet projects. The proposals were first mooted after the 9/11 attacks – a time when every previously unacceptable security and surveillance policy was quickly dredged out of the bottom drawer, had the dust blown off it, and rushed through legislatures before people had time to think. That period brought the UK the Anti-Terrorism, Crime, and Security Act, and brought the US the PATRIOT Act. The first consultation paper on identity cards was published in July 2002.

The Home Office did not, then, call them identity cards. Instead, they were billed as "entitlement" cards, and although the stated purpose of the cards included preventing terrorism, public statements focused more on preventing benefit fraud by requiring people to show the card to prove their entitlement to government services such as health and education. That paper discussed several possibilities for the cards themselves: a plain paper card that included a photograph, a simple plastic card, and, finally, a plastic card incorporating biometric identifiers such as fingerprint and facial scans. If you've ever watched *Yes, Minister*, you spot instantly which is the favoured option: the high-tech card that will make Britain the envy of all those lesser nations.

My favourite part of the consultation paper was the bit that said the cards wouldn't cost anything because they would be 'self-financing'. In other words, we'd pay for them directly when we applied for the cards instead of indirectly through taxes. The

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11 *BBC News*, "DNA tests sought 'for every Briton,'" September 8, 2003 @ [http://news.bbc.co.uk/2/hi/uk\\_news/3088920.stm](http://news.bbc.co.uk/2/hi/uk_news/3088920.stm).

12 *Statewatch*, "EU: Compulsory fingerprinting for all passports," October 10, 2004 @ <http://www.statewatch.org/news/2004/oct/10eu-biometrics-fp.htm>.

13 No2ID @ <http://www.no2id.org>.

consultation document estimated the costs of these options at £1.318 billion for plain plastic cards and £3.145 billion for the "sophisticated" smart cards. I did some back-of-the-envelope calculations at the time and concluded that even the plain plastic card would cost each driver and passport holder about £22 just to recover the set-up costs. That would make the sophisticates at least £60 – and that's without running costs. Privacy International predicted the real cost would be closer to £100. In 2003, the *Sunday Times* published a leaked memo admitting that ID cards were in fact going to cost each of us over 16 nearly £40. This is for the all-singing, all-dancing smart card. The latest official figures, from May 2004, give costs to individuals of: £73 for a new ten-year biometric passport (beginning in 2007); £69 for a new ten-year biometric driving licence; £35 for a ten-year ID card. Estimates for the cost of the overall system are now up to £6 billion, and that's without including the cost of biometric readers all over the place – in hospitals, schools, doctors' offices, post offices, banks...

Said Blair in April, 2004: "In relation to ID cards... I think there is no longer a civil liberties objection to that in the vast majority of quarters. There is a series of logistical questions, of practical questions, those need to be resolved, but that in my judgment now, the logistics is the only time delay in it, otherwise I think it needs to move forward."<sup>14</sup>

My brother, Andrew Grossman<sup>15</sup>, an expert on nationality and immigration issues tells me that the UK and US have a genuine problem in that they do not know who their citizens are, unlike most European and many other countries. In Switzerland, for example, your place of residence must always be registered with the police; in Belgium, Germany, or Finland everyone has identity papers.

In English-speaking countries, however, the right to anonymity has traditionally been part of a group of freedoms that are considered fundamental: speech, religion, press, and assembly, as the American First Amendment lists them. The right to privacy is not specifically listed in the American Constitution, but it has nonetheless been cited as a general principle by, most famously, Judge Louis D. Brandeis, who called it simply, "the right to be let alone". All these rights, and others, are more recently enshrined in the Universal Declaration of Human Rights.<sup>16</sup>

In the UK, however, the idea of carrying any identification– speaking as a foreigner living here – seems to be disliked in a way it's not in the US, where even though there is no official ID card, few people venture out without some form of identification, usually a state-issued driver's license. Quite apart from knowing someone can identify you if you're in an accident of some kind, before credit cards, you carried identification so you could write checks or gain access to bars or buy cigarettes. Now, you may be asked for identification when you want to use a credit card or, since the World Trade Centre attacks, while checking into a hotel or boarding a train or even a long-distance bus. More recently, legislative proposals to create national standards for

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14 *The Register*, "Blair puts compulsory ID card on fast track for UK" April 2, 2004 @ [http://www.theregister.co.uk/2004/04/02/blair\\_puts\\_compulsory\\_id\\_card/](http://www.theregister.co.uk/2004/04/02/blair_puts_compulsory_id_card/).

15 See <http://www.uniset.ca> for some of his papers on the fine points of immigration and naturalization law.

16 A copy of the UDHR can be found at <http://www.un.org/Overview/rights.html>.



driver's licenses, which are currently entirely at the discretion of the individual states, might create the machinery for a national identity card.<sup>17</sup>

In the UK, as far as I can make out without inspecting people's wallets, it's very common for people to walk around with no identification at all; they carry credit cards, bank cards, and other tokens, but these are not identification in the usually accepted sense. Many of my friends have to remember to take some form of ID if they want to do something like pick up a package at a Post Office. And the question of whether carrying – as opposed to owning – an ID card seems much more politically charged here. It would never occur to me, for example, not to have my British driving licence with me when I'm in the car, simply because if I were stopped I wouldn't want to have to waste time bringing it to a (doubtless far less convenient) police station at a later date. But this is a choice. Many of the older British people I speak to are vehemently opposed to any system that would require them to carry ID, a requirement they identify with Nazi Germany and apartheid South Africa; in the US such a compulsion would arguably violate the First Amendment clause granting the right to freedom of association. It is certainly correct that it should not become a crime to walk out of your house forgetting your card. It is doubtless because of this deep-rooted cultural resistance that even the most Orwellian drafts of the legislation stress that there is no intention of making carrying the cards compulsory. Yet this reassurance is probably, dishonest: it seems unlikely that a compulsory carry law wouldn't eventually be adopted, since without that compulsion the claims that the card will aid the fight against crime and terrorism don't make a lot of sense.

Government polls claim that 80 percent of the population is in favour of the ID cards. Among the people I talk to, leaving out the privacy advocates, anti-ID card activists, and security and technical experts, this does seem to be true. But it's true in the same way that someone might say they're in favour of warmer weather. When I talk to them in more detail, they like the idea of simplifying their dealings with government and of having what they hope will be a single ID they can use for many purposes. They are markedly less enthusiastic, however, when you tell them they'll have to pay £35 for it. They aren't in favour of the details or the impact any more than they are in favour of global warming.

But this is part of why I think the government focuses on the card rather than the database. The card can be portrayed as conferring benefits on individuals. People can imagine they will present the card and their interactions with government will be streamlined or that they will have a secure way of proving their identity. In fact, they already have that now in the form of a passport – and yet no one uses it. Instead, everyone is asked to bring utility bills and credit cards, and other documents with limited back-end authentication. Passports could be used for identification – for example, when opening bank accounts – than they are now, but we've generally been trained to treat them as too valuable to walk around with casually.

In the US, of course, you'd just show your driver's license (or, if you don't have a license but wanted a photo ID, something like a Sheriff's ID that you can register for voluntarily).

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17 *CNSNews.com*, "Driver's License Rules in Intel Law Spark Outrage," December 20, 2004 @ <http://www.cnsnews.com/ViewNation.asp?Page=%5CNation%5Carchive%5C200412%5CNAT20041220a.html>.

The people I know who are seriously in favour of the cards do tend to believe that we are in wartime and that identifying who has a right to be in the country and use its services is part of locking down the nation against terrorism.

The Web site belonging to the Leader of the House of Commons lists the following "key benefits" for ID cards:<sup>18</sup>

1. Tackle illegal working and immigration abuse
2. The prevention and detection of crime and counter-terrorism
3. Prevent identity theft and fraud
4. Prevent fraudulent access to public services
5. Enable easier and more convenient access to services
6. Bill allows verification of cards with consent of holder
7. Safeguards on provision of ID card information without consent
8. Creates new offences - fraudulent use of a card, possession of false ID, unauthorised disclosure of information by administrators of the scheme
9. Establishes National Identity Scheme Commissioner to review operation of the scheme - annual report to the Home Secretary laid before Parliament
10. Bill provides for compulsion to register at a later stage

Clearly not all of these are benefits to the average individual – they are benefits to the government wishing to bring in the scheme. If we don't bring in ID cards, we don't need the Commissioner or the power to make registration compulsory; still less the creation of most of the listed new offences. It might make sense to make it illegal to possess false ID, but you don't need an ID card to do that, and of course it's already illegal to give false information to procure passports or driving licences, or to have fakes of those documents. Similarly, if we don't have the database, we don't need the safeguards and we don't need to verify the card, if it doesn't exist. So we can knock out the last five of these supposed benefits: they don't solve problems we have, only problems we will have if we have an ID card.

The opposing arguments<sup>19</sup> in brief:

- expensive
- will not be effective in preventing terrorism
- will not be effective in preventing identity theft
- will not be effective in cutting down crime
- will not improve national security
- creates new crimes

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18 The List is at <http://www.commonleader.gov.uk/output/page782.asp>.

19 See, for example, Privacy International's ID Cards page: @ [http://www.privacyinternational.org/index.shtml?cmd\[342\]\[\]=c-1-National+ID+Cards&als\[theme\]=National+ID+Cards&conds\[1\]\[category.....\]=National+ID+Cards&als\[\\_parent\\_\]=National+ID+Cards](http://www.privacyinternational.org/index.shtml?cmd[342][]=c-1-National+ID+Cards&als[theme]=National+ID+Cards&conds[1][category.....]=National+ID+Cards&als[_parent_]=National+ID+Cards).

- other, existing methods just as effective at preventing illegal working
- will require entire population to report for interviews and facial/fingerprint scans
- will arm the state to be much more invasive of individual privacy
- fundamentally changes the relationship between citizen and state

In other words, if the opponents are to be believed, the card/database will not deliver the first five of those key benefits we're supposed to be getting it for.

Lets examine these issues one at a time:

**Expensive.** The current estimated cost of setting up the national database and issuing cards is £6 billion. Government IT projects historically go way over budget in terms of both money and time – if they don't eventually fail entirely. This is especially likely in this case, where the system being attempted is so massive. The government seems to be in denial of this.

**Will not be effective in preventing terrorism.** Any self-respecting terrorist will get himself an ID card. The World Trade Centre terrorists had valid identification documents: driver's licenses, passports, and so on. Yes, in some cases the identities were stolen, but, as one security expert has said to me in interviews, identity was not the whole game. Those same terrorists travelled by air to join their planes the very morning of the attack but were no threat on those earlier flights. ID cards have not stopped terrorist action in Spain or the many other places that have them in place. What matters there is not identity but intention: if you intend to commit a single terrorist act and die at the end of it, you have no need to hide your identity. You may even want it known so you get the credit afterwards. An April 2004 report by Privacy International concluded there was no evidence to support the claim that identity cards help prevent terrorism.<sup>20</sup>

The Cambridge security specialist Ross Anderson summed up this problem neatly by saying, "It's usually a matter not of identity but of roles."<sup>21</sup> To the DVLA I'm a driver, to my GP I'm a patient, to my library I'm a patron, to my local council I'm a taxpayer. They don't need to know who I am as much as they need to have confirmation that I meet the requirements for those roles.

**Will not be effective in preventing identity theft.** The problem here is that the more valuable an identity document is, the greater the motive to create forgeries. The assumption here is that because the card will have biometric identifiers on it, it will be impossible for someone else to steal the card and the identity attached with it. What this overlooks is that the key element of this entire scheme is the database and the most important identifier on the card is that unique number by which an individual is known. To do serious damage to someone's identity you will not necessarily need to steal the card and try to use it to impersonate them; it is likely that you'll be able to do plenty of damage by just stealing the number. Look at credit cards. Just around the time that banks started adding holograms and smart chips, everyone started using the

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20 "Mistaken Identity: Exploring the Relationship Between National Identity Cards and the Prevention of Terrorism", April 1994 @ <http://www.privacyinternational.org/issues/idcard/uk/id-terrorism.pdf>.

21 Ross Anderson's testimony, February 24 2004 @ <http://www.publications.parliament.uk/pa/cm200304/cmselect/cmhaff/uc130-iv/uc13002.htm>.

cards on the Internet, where the "card" is just a 16-digit number with a four-digit expiration date and, more recently, a four-digit security code. In the US, where there is no national ID card but there *is* a national identifying number known as the Social Security Number, identity theft is the fastest growing crime. Armed with someone's SSN and their birth date and maybe their mother's maiden name, you can steal quite enough of their identity to get credit cards, open bank accounts, and so on and leave them to deal with the consequences of your debts. This sort of problem became serious in part because SSNs, despite federal law prohibiting extraneous uses, began to be used in all kinds of irrelevant contexts – the state of Kentucky used them as driver's license numbers, and some universities even used them as student ID numbers. Obviously, the UK will benefit from the US experience. But if you have to present the card to get health services, education, state benefits, and so on, your number will ultimately be in the hands and databases accessible by hundreds, if not thousands, of people.

What the card *will* do is ensure that if someone is a victim of identity theft the consequences to that person will be far more severe than they would be now because all their identity will be connected to that single card and number. Now, you may be carrying around a wallet full of cards, but if you lose your library card you can still present your driving licence to the policeman who asks for it. I know Mark Twain, in *Pudd'nhead Wilson* took a good pot-shot at the old adage when he said, "*Keep all your eggs in one basket – and then watch that basket*", but when you have all your eggs in one identity card you have no back-up you can use if it is lost, stolen, or compromised.

**Will not be effective in cutting down crime/Creates new crimes.** Even police spokesmen, who publicly support the ID card privately, admit they'd rather have the funds to hire the 10,000 more policemen or however many it is that the country could afford with the vast sum of money the national ID card and database will cost.<sup>22</sup> It's hard to see how the ID card can help cut crime. We hear more about the difficulties of catching and convicting criminals than we do about the difficulty of identifying suspects. If anything, it will increase crime because of the new crimes the bill creates, mostly relating to failure to register or report changes in personal details. Opponents say that without ID cards, the UK's crime rates are comparable to European countries that do have ID cards.

**Will not improve national security.** It is for the same reasons; it won't cut down on terrorism: terrorists will have identity cards. Most people in airports, where a lot of national security concerns are currently focused, have carefully authenticated ID with them already: their passports.

**Other, existing methods just as effective at preventing illegal working.** The Law Society has pointed out in testimony, at for example Privacy International's public meetings that employers already have methods available to them for checking that their employees have a legal right to work in the UK. They do not use them. Even if

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<sup>22</sup> It's worth noting that there is an important class divide with respect to this argument. The opposition to identity cards is, as of early 2005, predominantly middle-class and/or well educated. These groups tend to regard police as relatively helpful and friendly. The same is not true in many deprived and working class areas of Britain, where the prospect of more police on the street is highly unwelcome. There is a genuine argument to be made that hiring more police could do more to turn Britain into a police state than bringing in a national identity card, but that is beyond the scope of this discussion.

they would more readily check ID cards, the methods we have are already here and inexpensive. The Law Society believes it would be more effective to get employers to use the methods already available.<sup>23</sup>

**Will require entire population to report for interviews and facial/fingerprint scans.** 60 million people. A helluva queue. The government's answer to this is that the cards will roll out slowly. You will be enrolled in the system when you renew your passport or driving licence, or if you decide voluntarily you want a card. Nonetheless, it will take a longer appointment to get the new biometric passport than it has in the past. Details are not yet available about how rigorous background checking will be. If it's not rigorous, then there's no point to the exercise; if it is rigorous it will be time-consuming and slow.

**Will arm the state to be much more invasive of individual privacy.** Lately I've been running into the weary, cynical argument that the register doesn't matter because we have no privacy left anyway; actually, the government already has all this information. I had to think to come up with an answer to that, and it's this: there is a big difference between knowing that information is out there if someone really wants to find it and giving them carte blanche to abuse it if they want to. Burglars can find my house and if they have the patience they can watch, figure out the times when I'm not there and what's worth stealing, and make a plan to break in. But we don't pass a law saying burglary is legal and require every householder to hang a copy of the key in a convenient location outside the front door. Similarly, it is our right to decide what information the government should have about us and what they may do with it. They work for us, not the other way around. In Germany, which has had ID cards going all the way back to Bismarck's time, there are extremely stringent laws limiting how and when government departments may share data – safeguards the UK government is not proposing – and these give the Germans I've spoken to confidence that their privacy is not being abused. In addition, according to Cambridge computer security specialist Ross Anderson, if you lose the card you are issued with a new number, which automatically limits the sort of "function creep" I talked about with respect to the US's SSN.

Anderson has a number of technical objections to the scheme as currently envisioned. He believes it won't work and will cost more than anyone believes, but a more important point is that the more functions you try to include in the card the more it's going to cost and the more likely it is to fail. Of course, the idea that the card will replace our wallets full of plastic cards is one of the selling points ministers make. But Anderson cites an effort to create a single card to use all the libraries at Cambridge as an example of why this doesn't work well in practice. Administration becomes more difficult logistically for each individual library if they have to use a large, central database than if they maintain their own, smaller one. In practice, it's hard to see what the ID card would allow you to stop carrying. It's not going to incorporate your credit cards – banks and other organizations want the branding on the card. It's not going to replace supermarket loyalty cards, access cards for your place of work, or cards issued by professional associations. No one that I'm aware of actually carries an NHS card or a national insurance card, or even a passport; few carry their driving licence. So the card in fact will be an extra thing to carry – and with it will come the extra legal

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23 The Law Society's comments on the Identity Cards Bill are at <http://www.lawsociety.org.uk/influencinglaw/currentbillactivity/view=billarticle.law?BILLID=214172>.

requirement to produce it within a set amount of time if asked or commit a criminal offence.

**Fundamentally changes the relationship between citizen and state.** The card allows, for the first time, government and law enforcement to demand as of right that you prove who you are. Until now, at least in the Commonwealth countries, there has been a deep-rooted belief that part of being free in a free society is not having to do that.

There is another argument in favour of ID cards that you hear a lot. "**If you have nothing to hide, you have nothing to fear.**" There are lots of things we keep private even if we don't fear repercussions if they become known. Nothing terribly bad would happen if people knew the details of my finances; yet we don't send bank statements on the backs of postcards.

Quite apart from all those objections, there is another whole set of technical objections. One has to do with the error rate in government databases, which is substantial. The idea that you could change your address one time via a form submitted to one authority and have the change percolate through all the government departments you do business with is seductive, especially to MPs who are faced with surgeries full of people who are frustrated, exhausted, and confused from their dealings with government departments. But consider the converse: under the present system if your records contain errors in one place they may be correct in another. If the central database has it wrong, it will be wrong everywhere. We might look for an example of this sort of problem to the credit scoring agencies, which are notorious for data errors with consequences to real people's lives.

A second set of technical objections revolves around the biometric identifiers. Of course the police have used fingerprints for more than a century and DNA profiling, too, is well established. But we are talking about vastly more complicated systems that will have to be used on the fly in all sorts of conditions. James Wayman, an expert on biometrics who has worked for both the US and UK governments, tells me that contrary to popular belief (which he blames the comic novelist Mark Twain for promulgating), people's fingerprints do not stay the same from birth to death. All kinds of conditions can affect your fingerprints: heat, cold, moisture, dirt, thinning or thickening of the skin on your fingers, even the angle at which you press the finger onto the substrate. Facial scans have even more problems. When he installed a facial scan system at his lab, they had to install special lighting to make the system work – the system would only recognize subjects under the same lighting in the same position. One day, the bulb burned out – and the replacements were inside the lab, where no one could get in to get to them. Finally, the system got turned off after Year 2000 because it did have a Y2K problem and when they went back to the company to get it fixed the company had gone out of business.

Another big problem in biometrics is testing. Testing is expensive because you have to work with human subjects, and there are no standard protocols for such tests, making it difficult to compare test results between laboratories and products. In addition, after test results are released vendors frequently claim that they learned from the tests and improved their product since. But there is no way to evaluate this claim because the new! improved! product hasn't been tested.

But the big problem in biometrics is people. "People," Wayman is fond of saying, "never have what you think they're going to have where you think they're going to

have it." Biometrics are often compared to barcodes. But when the barcodes on a particular fail repeatedly in scanners you can go back to the manufacturer and demand that the product code be redesigned to improve the accuracy. You can't do that with people. In addition, the bigger the database gets the greater the numbers of false positives and negatives are going to be. British airports process 134 million people a year. An error rate of only a tenth of a percent means 13,400 mistakes a year.

And what's being attempted is on a scale beyond anything that exists in the world today. The largest functioning national identity system is the Philippines social security system, which has about four million enrollees.

In fact, Britain already uses fingerprinting for identification for asylum seekers, who must report every couple of months. Fingerprinting helps establish continuity of identity – a real problem when you have multiple interviewers over a period of months.

It is, however, very unlikely that anyone would try to use a biometric – even a DNA sample – as a way to link multiple records. It's too slow and inefficient – hence the desire to issue national numbers.

All that said, biometric systems can work well in some circumstances. If you want to prove that someone isn't in a particular database, biometrics are effective – say you want to ensure that no one gets two driving licenses. Secondly, for positive identification, such as the UK immigration program. But you have to be sure that biometrics will solve the problem you actually have. For example, I think it was Arizona that put in a system requiring welfare claimants to give fingerprints. The idea was to prevent benefit fraud, specifically the kind of fraud in which someone claims under another person's identity. The problem, however, was that very little benefit fraud depends on fraudulent identities. Most benefit fraud involves claiming money the person isn't entitled to – they lie about how much they've worked, or they claim types of benefit they don't qualify for.

But it would be a mistake for opponents of the National Identity Cards Bill to focus on these technical arguments. What matters here is the principle of whether Britain should have ID cards. To focus the opposition on technicalities is to concede the principle. Today's technology may not work – but tomorrow's might.

Ultimately, the fact that there have been so many proposals for identity cards over the years suggests that the reason successive governments have wanted them has very little to do with any of the things they say they want them for. Peter Lilley has noted that during his time in government every successive new Minister for IT would offer the cards as solution to every social problem, "from crime to shortage of kidney donors".<sup>24</sup>

The software engineer and essayist Ellen Ullman, in her 1997 book, *Close to the Machine*, talks about the way databases "infect" their owners with a desire to know things they never cared about knowing before – and that may damage long-established practice and trust relationships.

She writes of an incident in which a new database owner asked if she could put in keystroke monitoring so he could find out what a key employee did all day. The

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24 The Observer, "ID cards – a dumb idea and dangerous too", June 30, 2002 @ <http://observer.guardian.co.uk/libertywatch/story/0,1373@@>.

employee in question had worked for him for 26 years, knew all his customers by name, and at one time picked up his kids from school. It was, she says, the first time she saw a system infect its owner.

"Many years and clients later, this greed for more data, and more again, had become a commonplace. It had become institutionalized as a good feature of computer systems: you can link them up, you can cross-check, you can find out all sorts of things you didn't set out to know."

A little later, she writes, "I'd like to think that computers are neutral, a tool like any other, a hammer that can build a house or smash a skull. But there is something in the system itself, in the formal logic of programs and data, that recreates the world in its own image...the computer is not really like us. It is a projection of a very slim part of ourselves: that portion devoted to logic, order, rule, and clarity."<sup>25</sup>

These observations may go a long way toward explaining why ID cards come up over and over again in government. "I need to know everything," Humphrey Appleby says in *Yes, Minister*. "How else can I judge whether I need to know it?"<sup>26</sup>

Ullman's comments also remind us that the danger of loss of privacy does not end when the national database is created to specification. Instead, those dangers are likely to become apparent only after it's been set up, and to increase over time as more and more data is added, and the card is used for more and more functions.

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25 Ellen Ullman, *Close to the Machine*, City Lights Books, (1997), pp. 85-86.

26 "The Right to Know," *Yes Minister*, Series 1. The setting up of a national integrated database is considered in the episode 'Big Brother' and also Series 1 – though this episode deals primarily with how to get the Civil Service to do anything they don't want to do, rather than the question of who actually wants the database set up. It's actually the converse of today's situation: Hacker's predecessor in his fictitious department had done all the work to solve the problems of the database, and the Civil Service was stalling and hiding the previous administration's papers from Hacker, who wanted to draw on the work that had already been done to provide citizens with safeguards.