The silent growth of video surveillance in Italy

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Abstract. This paper aims to analyze the growth of video surveillance in Italy through a focus on the legislative framework and the politics, in particular urban security policies. The paper explores whether the decentralization of security policies has impacted on the implementation of surveillance cameras within national urban contexts. A specific emphasis will also be given to the limited empirical data available, namely a qualitative research carried out in the city of Milan in 2005 [4]. Efforts are made to understand potential discrepancies between the national Data Protection Authority provisions on video surveillance and the reception of it by the camera operators. This contribution also seeks to shed light on "lost surveillance studies" [15] within a non-Anglophone framework in order to sketch out an approach to surveillance that differs from countries where the issue has been broadly explored (*inter alia* [21]).

Keywords: CCTV, Italy, Milan, regulation politics, security, surveillance, urban, video surveillance

1. Introduction

While the proliferation of video surveillance cameras in the public space has been explored from different perspectives by focusing on several case studies which have been investigating this trend mainly in Northern European (see, *inter alia* [13,17,18,20,27]) and North American [25] contexts, much remains to be learned about the implementation and regulation of surveillance cameras in Southern Mediterranean countries. As Klauser [15] and Samatas [26] have shown, neither surveillance studies nor the expansion of CCTV are confined to English speaking countries, it is thus essential to take into account other contexts with different socio-cultural backgrounds that present some peculiar features.

First, the lack of literature (both in Italian, with a few exceptions, and in English) focused on the Italian case seems to go along with a marginal presence of this issue in the public debate. This contribution, thus, aims at "filling the gap" in the state of art concerning video surveillance IN.

For the first time an evaluation of what has been done so far concerning the regulation and governance of CCTV and data focused on the only qualitative empirical research carried out in a major city (published in Italian in 2007) are available to non-Italian readers. If the extremely limited available data does not allow broad generalizations, an assessment of the legal framework and the emergence of national trends seem to be achievable.

Second, while it is beyond the scope of this paper to investigate the overall Italian socio-cultural background, it is important to acknowledge that contemporary dynamics of surveillance, resistance (or lack of) and also the notion of privacy and anonymity in South Mediterranean countries might diverge from Northern European "approaches". Much remains to be learned regarding legal, social and cultural

similarities and differences. In a country like Italy where a weighty surveillance past has been neglected until recent times [6], one might argue that it is not surprising that surveillance studies are still at an early stage. Within this context, either surveillance cameras within urban environments used to monitor ordinary citizens constantly proliferate without a proper public debate or the regulation of video surveillance has remained unknown even to those in charge of using the cameras [4].

Third, while changes in the regulatory regime of video surveillance in Italy suggest that this has been an issue of concern to the national Data Protection Authority (hereafter DPA) since the late 1990s, the legal framework came into force in a statistical vacuum, as explained in the following pages.

This contribution, thus, examines three key issues:

- 1. the regulation of video surveillance in Italy and the changes in the regulatory regime;
- 2. CCTV and urban security polices;
- 3. empirical data on the city of Milan.

The last area of discussion considers the outcomes of a qualitative research carried out in a major city and also looks at discrepancies between the DPA's general provision on video surveillance and the reception of it by CCTV operators.

2. Early growth of legal regulation of CCTV in Italy

While it is difficult to assert exactly when and where video surveillance was used for the first time in Italy in a public accessible space, one might argue that early growth of the CCTV started in the 1990s. In fact, in 1999 the Italian Data Protection Authority¹ claimed that, because video surveillance was an important issue of interest to the public, the DPA along with La Sapienza University (Rome) were carrying out a first evaluation to assess the diffusion of this tool at a national level (DPA press release, March 8th 1999). The research, the first of this kind, focused on the "visible surveillance cameras in central and semi-central areas of four cities: Milan, Verona, Rome and Naples" [14: 3]. While "visible" indicates that all the cameras, whether private or public, were included in the research, it is not clear what central and semi-central areas exactly mean. The outcome was an estimate density of CCTV (213 in Milan, 67 in Verona, 796 in Rome and 89 in Naples) [14: 5] in specific areas. In all the four cities CCTV was largely confined to the private sector, in particular, banks. However, I am not concerned here with quantitative data but with the conclusive remarks which clearly address the necessity of a specific regulation as far as video surveillance that encompasses requirements such as proportionality and technical capabilities [14: 48–49].

This first evaluation, along with an increasing number of requests made by public bodies to install video surveillance, urged the DPA to issue some guidelines in 2000, the so called "video surveillance decalogue". The latter is the first attempt to deal with the growth of surveillance cameras in a legal vacuum. In absence of specific provisions, the DPA acted within the existing legal framework, namely the Act no. 675/1996 "Protection of individuals and other subjects with regard to the processing of personal data" (Italian Data Protection Act). In particular, personal data collected through video surveillance shall be processed lawfully and fairly (art 9, a) and shall be collected and recorded for specific, explicit and legitimate purposes and used in further processing operations in a way that is not inconsistent with said

¹The Garante per la protezione dei dati personali is a collegiate body including four members, who are elected by Parliament for a seven-year term. It was set up in 1997 and it is an independent authority which aims to protect fundamental rights and freedoms in connection with the processing of personal data, and to ensure respect for individuals' dignity.

purposes (art. 9, b). Additionally the data subjects shall be informed about the purposes of the processing for which the data is intended (art.10). In the case of CCTV, this means that data subjects should be informed that they are going to access or find themselves in an area under video surveillance, especially if the latter is not clearly visible. Video surveillance shall be proportionate and – if not necessary – detailed images should be avoided. Proportionality applies also to data retention which must be a pre-determined criteria and processors (CCTV operators) shall be designated to determine that proportionality.

The following provisions on surveillance cameras operate within the new Personal Data Protection Code which came into force in 2003. In 2004 the new general provision on video surveillance enhanced the decalogue since in the years following the implementation of the guidelines, several complaints were submitted to the Authority pointing out that the use of audiovisual equipment was "often in breach of law" [Foreword, 9]. The core elements of the aforementioned provision are four principles (which are in the Personal Data Protection Code), specifically lawfulness, data minimization, proportionality and purpose specification. The *fil rouge* that connects all principles emerges from the following statement included in the proportionality principle: "One should refrain from making what is simply the less expensive, easiest or most rapidly applicable choice, which might fail to take into account of the impact on other citizens' rights and/or different, legitimate interests". In emphasizing the right to privacy of the data subjects, the DPA suggests adopting a non-technologically driven approach to security and to consider video surveillance tools as the *ultima ratio* when other measures are unfeasible or not sufficient. In particular the Authority draws attention to potentially redundant uses of CCTV which should be deployed only if there is a real danger.

The provision also covers general and specific requirements, such as the information notices that should be placed close to the areas under surveillance and the data storage period that should be limited to 8 days except for some specific cases and places (i.e. banks). Other aspects which had not been covered by the decalogue were, for instance, some contexts, such as hospitals and schools that are considered particularly sensitive places. Video surveillance "may be admissible if absolutely indispensable" and the cameras can be in operation only after the closing time of the schools. With respect to public bodies, such as municipalities, the provision highlights that it is unlawful to use video surveillance to monitor large cities' areas if some specific conditions are not fulfilled.

As shown, this provision seems to consider video surveillance not as a mere technical security tool, but as socio-technical device that might have important implications, such as the limitation of the freedom of movement in the public space (Foreword) or the infringement of the privacy of minors [9: 4.3 Schools and Other Institutions]. The potential social implications of video surveillance are also raised in the section focused on data minimization (unnecessary, excessive and/or redundant uses of video surveillance are to be ruled out 2.2), on the above mentioned proportionality principle and on public bodies by highlighting that it is "unlawful to perform pervasive video surveillance of whole areas of a city" (5.1) as it should be used only if there are actual dangers.

This provision undoubtedly improves and also updates the previous guidelines in light of changed political dynamics concerning urban security policies.

2.1. CCTV and urban security

From the late 1990s, urban security has increasingly become an issue to be proactively addressed by local municipalities. It has been claimed that in the name of urban security, local municipalities not only actively addressed criminality but also defined the perception of security of their citizens [23: 28]. This new approach to urban security led to the growing role of local governments, regions and of mayors who

have powers over policing. Moreover, through the law 128/2001, for the first time local police forces can be formally involved with the Provincial Committee for order and public security (before only state police was involved in the works of the committee). This shift has caused, on the one hand, an increasing direct demand from the citizens to the mayors to live in safer cities and on the other, a new model of "integrated" security exemplified in the following years by the so called "local agreements for integrated security".

Regional directives in the field of urban security have been developed and local municipalities have often reacted to the citizens' claims for security through technological means, such as video surveillance. The trust in technology seems a direct counterpart of the fragmentation originated in the 1990s: local dynamics (i.e. the relevant role of local governments) and new vulnerabilities (i.e. migration flows) fostered the urge to offer rapid answers.

The involvement of the municipalities in the field of security as key players of policing [11] and the escalating use of CCTV in urban environments have been recognized also by the DPA which has recently (April 2010) issued a new provision on video surveillance. As a matter of fact the National Association of Italian Municipalities (ANCI) is even mentioned in the introduction of the provision: local governments, along with the Ministry of Interior, were consulted before issuing the provision. This might suggest a direct link between the escalation of video surveillance and the role played by local actors that have been progressively more reliant on surveillance technology to cope with security related issues within urban spaces [3: 166]. Moreover, this provision seems to reflect a new "governance model" shaped by recent laws (law number 38/2009; 94/2009; 125/2008) related to urgent urban security measures that provide considerable powers to city mayors.

It is also worth noting that local municipalities have not only been empowered but also financially supported by the Ministry of the Interior. I estimate that in 2009 the Ministry of Interior allocated around 30,000,000 Euros to maintain public order and enhance urban public security through video surveillance [19]. Public funding was specifically allocated for local municipalities that plan, *inter alia*, "to invest in video surveillance technology".

The new regulatory regime was issued in light of the above mentioned laws and public investments, therefore it varies from the 2004 provision. While the latter drew more on international safeguards (such as article 8 of the European Convention of Human Rights, the Council of Europe's guidelines of 20-23 May 2003 and the documents drafted by the European data protection authorities within the framework of the Article 29 Working Party) and on an overall "social" approach to video surveillance, the recent provision seems driven by changes that occurred at a national level with regard to new governance polices.

The new provision on surveillance cameras emphasizes more specific requirements and settings (i.e. the information notice, biometrics and "smart cameras", traffic surveillance cameras) than the four core principles. It should be noted that in accordance with this new provision, if the purposes of surveillance cameras are the maintenance of public security and order, prevention and repression of crime, the information notice is not mandatory but it is highly recommended by the DPA since "it [the information notice] enhances the role of video surveillance and could be an efficient deterrent" [10: 3.1.2]. However, if the recorded data is monitored and processed by law enforcement agencies, the information notice is mandatory. This could be misleading as usually in the public realm CCTV is used (or it is claimed to be used) for public security purposes and crime prevention, and it is run by the local police. Therefore, it is not clear what the recommendation of the DPA really entails.

Local municipalities are explicitly mentioned as far as data storage is concerned, as they are allowed to retain the images for longer than 24 hours (up to 7 days) for security purposes. New requirements

concerning traffic enforcement cameras focus on the collected data which shall be limited only to number plates and with the aim of detecting traffic regulation violations. Biometric and smart cameras, such as those able to detect suspicious movements, shall be subject to prior checking by the DPA as the generalized and uncontrolled use of biometric data could stigmatize the data subjects [10: 3.2.1].

With regard to specific settings it is worth noting that this provision does not mention places of worship and burial grounds which, on the contrary, were considered particularly sensitive in the previous general provision [9: 4.5].

The main difference between the two provisions seems related to the overall approach to video surveillance. In 2004, surveillance cameras were the "last resort" when other measures had been considered rejected or unworkable. Six years later, both the widespread use of CCTV by public bodies and a new national legislative framework, have led to a "softer" provision that takes surveillance cameras for granted. Video surveillance is not exceptional anymore, rather it is an everyday practice increasingly used by city mayors to promptly answer citizens' security concerns. Changes to local governance models have certainly played a crucial role in both the diffusion of this tool and the encouragement of its use, regardless of national empirical data concerning the effectiveness, cost-benefit analysis and the potential privacy implications.

It is not clear to what extent the European legislation and guidelines have influenced the last national provision. However, what seems to be specific about the regulation of CCTV in Italy in comparison to other European countries [12] is that, as mentioned in the Introduction, the legal landscape came into force in a statistical vacuum. In this respect, Italy and France share the same peculiarity, namely the absence of statistical evaluation of public CCTV systems [15]. The Italian academic debate is almost nonexistent and the aforementioned evaluation carried out by the DPA is neither an updated nor a comprehensive source. Additionally, the DPA has not been a generator of CCTV literature and there is a lack of, i.e., comparative studies on the European regulatory systems and their effectiveness. It is also difficult to assess the effectiveness of national safeguards to protect citizens' privacy.

The Italian specificity in the regulation of CCTV is that a relatively early engagement of the DPA neither either by a proper public debate nor by evaluation studies which, as epitomized in the empirical study analyzed in the following pages, might have suggested a more careful approach.

Another peculiarity lies in the changes brought about by new governance polices which, as shown, raise issues as far as power relations and key players are concerned. The growing role of local governments – fostered by a new governance model- shaped the last DPA provision on CCTV. Within this context, the role played by the DPA seems rather "weak" albeit considerable efforts concerning regulatory measures have been made.

3. The "eyes" of Milan

As briefly mentioned, empirical research focused on video surveillance is almost nonexistent. Therefore, it is complicated to provide up-to-date national information concerning the proliferation of surveillance cameras in Italy. Public funding allocated by the Ministry of Interior suggests that open street CCTV is used for urban security purposes both in big cities (such as Milan, Naples and Rome) and in very small municipalities that successfully applied for public funding. (i.e. San Giovanni Lipioni with a population of less than 300 residents has received 35,100 Euros for video surveillance) [19].

Before a more in-depth analysis as far as the case of Milan is concerned, it is worth considering that there are recent reports issued by Regional Governments [i.e.] [23] that have begun to describe the practice of video surveillance in Italy. Additionally, the city of Genova and the regions of Emilia-Romagna and

Veneto are partners of the European Forum for Urban Security and are consequently involved in the project "Citizens, Cities and Video surveillance" which aims to create a charter for the good use of video surveillance in European cities².

However, both from the public data issued by Regional Governments and from the report by European Forum for Urban Security [3] emerges an extremely fragmented picture. The data are mainly descriptive and there is almost no reference to empirical research focused on the use and the impact of CCTV. For instance, while the total costs of video surveillance systems' installation in the city of Bologna (Emilia-Romagna) is available [3: 156], the impact of CCTV is unknown as "it is difficult to measure precisely the project's results, as the crime statistics are not sufficiently detailed (notably from a geographic point of view) and do not allow a full analysis of crime rates" and the preventive aspect is not clear [3: 158–159]. On the other hand, the Regional Security Monitoring Center (Veneto Region) carried out, in 2007, an inquiry into video surveillance. Yet the data are limited to only 215 out of 581 communes [3: 213]. According to the police chiefs, in 60% of cases video surveillance has contributed to a reduction in petty crimes and public disorders but "it should be noted that in 21% of cases it has been observed that these illicit activities have been moved to other areas" [3: 214] not covered by surveillance cameras.

Very few Italian Regions have updated statistics and figures on video surveillance. One the most comprehensive report is the aforementioned report issued by the Piemonte region in which there is "a first analysis of video surveillance systems in Piemonte". Although there are quantitative data (i.e. number and distribution of the cameras in the eight provinces; the costs of the systems, etc.) there is a lack of information regarding the impact of video surveillance and a general lack of concern relating to the application of DPA provision on video surveillance.

The patchy overview that emerges from these few sources is neither enough to draw conclusions on the use of surveillance cameras in Italy, nor it can offer any insights on if and how the regulatory regime has been implemented.

Bits of fragmented and often unreliable information are also available in the mainstream media which are nonetheless more interested in the "spectacle of security" [1] rather than in the progressive erosion of privacy in the public space. Additionally, national mass media have perpetuated a rhetoric narrative based on uncorroborated claims that more surveillance implies safer cities.

The only qualitative data based on an empirical research was collected during a study, namely an ethnographic research, carried out in the city of Milan in 2005 [4]. The following case study exemplifies both the growing role of local municipalities in the proliferation of video surveillance and also raises some issues of those concerns related to substantial discrepancies between the provision on video surveillance and its implementation.

In the last 15 years there has been a considerable increase in the use of video surveillance in Milan (capital of the Lombardia region) as a crime prevention and deterrence measure. The first surveillance systems were set up in the late 1990s and they have been progressively augmented since 1997. The vice-mayor has repeatedly claimed that Milan is the most monitored city in Italy with more than 1,000 open street CCTVs [2] distributed all over the city, especially in green areas and in the surroundings of transportation hubs (i.e. main train stations). It should be noted that, thanks to a regional law (4/2003), situational crime prevention measures have been financially supported by the region. The latter, along with local municipalities, sustains projects aimed at improving safety and assisting the local police. Once again the legal framework has facilitated the use of CCTV in urban contexts such as Milan.

²http://www.cctvcharter.eu/

Open street CCTV is run by the local police either at control rooms located within the monitored areas or at the central police station. However, real time monitoring mainly takes place in the control rooms.

The ethnographic research was carried out in four control rooms selected on a number of considerations, *inter alia*, the most surveilled city areas. The aim was to describe the practice of CCTV thorough a combination of research approach (participant observation and semi-structured interviews). The study was mainly carried out through 70 hours of participant observation (from April to July 2005) distributed on various days and times of the week in order to verify how the cameras were monitored and operated at diverse times and by different operators. Due to the small size of the control rooms it was not always possible to take notes which also helped because the operators were more willing to talk extensively and informally about their job than if they had thought they were being properly interviewed. The observational study and the interviews with the operators were focused on four main aspects:

- 1. the target of surveillance (who was monitored and why);
- 2. the security strategies (was CCTV effective? Do they have statistical data in order to assess the benefits of video surveillance?);
- 3. the operators' training (in particular, what kind if any-training they had);
- 4. potential privacy implications (were the operators aware of privacy related issues? Were they familiar with the 2004 provision on video surveillance issued by the DPA?).

On the basis of the study, the targets of surveillance were primarily ethnic minorities, in particular North Africans and East Europeans, who were tracked for no particular reasons other than for their appearance [4], thus on the basis of a categorical suspicion [20].

When prompted about the choice of the target of surveillance, the operators did not convey a comprehensive explanation but rather reiterate statements such as "they commit crimes" or "people inclined to steal" without statistical evidence. In some cases, pervasive monitoring persisted for more than 30 minutes with no objective nor reasonable justification but rather on grounds of race or ethnic origin and thus driven by ethnic profiling and a prior suspicion [2,4]. Behavioral patterns did not play a crucial role in determining who had to be tightly monitored. Two social categories were also caught by the "electronic gaze" based upon their appearance, namely young people and women. The findings hence confirm the tendency towards both the masculinization of space and the objectification of women [16]. Additionally, the outcomes of the observation confirm that the construction of deviance by some operators draws on the association between certain kinds of youth-style clothing and crime [27].

Security strategies appeared "surgical", namely the underpinning approach was to use video surveillance as prevention and deterrence in specific parts of the city without taking into consideration either crime displacement or more holistic and long term plans to deal with crime related issues (in particular, drug trafficking). The operators did not have statistical data to claim that video surveillance had been effective in decreasing crime rates in the areas of observation as data and crime rates before and after the installation of CCTV were not available. Several raised doubts about the benefits of this security tool and could not figure out why a great amount of money was invested without cost-benefit analysis [4].

As far as the training is concerned, they claimed to have had a mere technical preparation that, in most cases, did not go beyond mechanical knowledge. Consequently, the large majority of the operators failed to recognize the potential social impacts of this tool, *inter alia* social sorting, privacy invasion and lack of a holistic approach due to a focus on only ascribed characteristics of the targets of surveillance.

They were not familiar with the DPA's provision on video surveillance, hence the use of zooms often seemed redundant and the system did not seem to be proportionate to real dangers. Obviously the legal framework was not a priority in the operators' daily monitoring of the cameras and a use of CCTV in

breach of the privacy law was often observed during the research. Moreover, the absence of guidelines for the use of video surveillance caused an overall subjective approach which drew more upon individual skills and knowledge than upon legal and ethical considerations [2,4].

The information notice was nonexistent or not provided in accordance with the existing provision and the privacy of the citizens was particularly at stake due both to the unnecessary use of zooms and the location of some cameras (i.e. CCTV overlooking a building's entrance). It is unclear if alternative solutions less prejudicial to privacy had been tested before the implementation of video surveillance and if the effectiveness of the measure had been verified at all.

The discrepancy between the provision and the practice of video surveillance emerged in many aspects. Surveillance cameras were considered only technological devices and little attention was paid to social implications [4]. In particular, the technical capabilities of the system overlaid important social concerns. The latter were not carefully considered and neither had camera operators been exposed to privacy legislation during training nor was there a deontological code in order to avoid any deviation from the provision or to ensure that CCTV was run ethically. Therefore, as stated above, subjective judgments and personal skills played a central role. The system, in fact, was not run within the parameters of the provision as it exceeded the proportionality principle. Large areas of the city of Milan were monitored and the lack of data concerning the crime rate before, during and after the CCTV installation suggests a reductive approach both to security strategies and to the right to privacy within public spaces. Moreover, the right to be informed about the presence of cameras was not respected in several of the four monitored areas as the information notices were not clearly visible or not close to the areas under surveillance. The divergence between the provision and the reception of it became apparent also during interviews with the operators who corroborated the researcher's assumption of a lack of knowledge as far as the DPA's provisions are concerned.

4. Concluding remarks

While there has been a relatively early engagement of the national DPA to safeguard citizens privacy with regards to video surveillance, open street CCTV, at least in the case of one of major cities in Italy, did not comply with the legislative framework. This perhaps relates to the fact the general power of the supervision authority is rather weak albeit section 153 of the Personal Data Protection Code clearly addresses the tasks to be discharged by the Authority. These tasks, for instance, shall consist in "verifying whether data processing operations are carried out in compliance with laws and regulations", "ordering data controllers or processors", "drawing the attention of Parliament and Government to the advisability of legislation", "giving opinions whenever required"; "raising public awareness of the legislation applying to personal data processing"; "drawing up an annual report on the activity performed and implementation of this Code" [22]. One might argue that punishments or on the spot inspections to verify unlawful or unfair uses of video surveillance are rare in comparison to the widespread uses of this tool by public bodies.

While it is true that the DPA has played its role by means and provisions which —as shown-specifically address the regulation of video surveillance, there is a need to verify if and how the legislative framework has been implemented. The attention paid by the DPA to the proliferation of video surveillance and the subsequent changes in the regulatory regime have not triggered more careful evaluations by public bodies which in some cases, such as in the case of Milan, rely on CCTV without in-depth analysis.

Furthermore, the increasing role of local governments and Regions along with new governance polices and significant public investment that encourage the use of surveillance, have not only shaped the last

DPA's provision but have also facilitated a technologically driven approach to urban security further amplified by the media without a proper public debate that goes beyond the rhetorical claims. The use of video surveillance in Italian cities has been silent so far, as there is a substantial lack of empirical research and national assessment to measure social and economic costs and benefits of this tool. As the little amount of publicly available data shows, the role of video surveillance in urban safety policies has not been properly evaluated.

Despite the data concerning public funding that reveals a picture confirming the extensive deployment of surveillance cameras, the lack of quantitative and qualitative research and the discrepancy between the privacy law and the "reality of things" require carefully analysis in order to avoid an overly reductive approach.

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