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A Norwegian Perspective

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The Norwegian Minister of Justice and the Police, Knut Storberget, predicts a DNA revolution in Norway (Dagsavisen 24.07.2007). He claims that DNA analysis is one of the most important tools available in the battle against criminality all over the world (Storberget 23.10.2007). A press release from his Department notes that no method can outperform DNA analysis, neither when it comes to efficiency nor credibility, and that it is necessary for the Norwegian police to have similarly efficient tools to police elsewhere. Repeatedly, DNA advocates predict that DNA will contribute to increased detection of a variety of crimes: from volume crime, through serious crime, organised crime and national crime, to international crime. The increase in detection will lead to decreased crime. Consequently increased use of DNA will free up police resources. Increased efforts to detect more crime will also contribute to increased security (Storberget 23.10.2007 and Ministry of Justice and Police). It was on this basis that the Norwegian government granted 64 million Norwegian kroner (approximately GBP 5 million) to Storberget’s “DNA revolution” last autumn.

In July 2004 the government appointed a committee to consider changes to the Norwegian forensic DNA database. A year and a half later this committee delivered a White Paper (NOU 2005:19) discussing a number of issues related to the use of DNA databases in criminal law administration, and urging a substantial expansion of the Norwegian forensic DNA database. The White Paper was then sent out on hearing to just over 50 government offices, NGOs and institutions deemed likely to have relevant input on this issue. These responded with statements in which they accounted for their opinions on the White Paper and its recommendations. Highlights from approximately 35 of the most important statements were published (Ot. Prp. Nr. 19). In addition, the Standing Committee on Justice provided a document with its views on the issue of an expanded forensic DNA database (Inst.O.nr 23 2007). The White Paper, the responses to it and the Standing Committee on Justice document constitute the main official written material regarding an expanded Norwegian forensic DNA database, and collectively form the background material for the national debates.

In December 2007 the Norwegian coalition government ruled to expand the forensic DNA database, from containing DNA profiles of people convicted of serious offences such as robbery, sexual assault, murder, and grievous bodily harm to a database

encompassing anyone convicted of a criminal offence leading to imprisonment. Overall, there has been political agreement that the DNA database should be expanded, but a number of issues have created controversy: How far should the database be expanded? Who should be included in the database? Should it be possible to get removed from the database? Should DNA samples be stored after a DNA profile has been obtained? And not least: What institutions should be allowed to conduct the analysis?

Like most other countries in the process of expanding their forensic DNA database, Norway looked to the UK, the biggest brother in the surveillance brotherhood, to see what they are doing. Police and politicians present stories of the great achievements of the UK National DNA Database. For example, one of the most frequently used arguments for expanding the DNA database is how detection rates on volume property crime in the UK increased from 14 to 48 per cent where the DNA database could be used. Through this and similar arguments using statistics it becomes evident that Norwegian politicians have read reports from the British Home Office like “DNA Expansion Programme 2000-2005: Reporting achievement” and been seduced by the apparently impressive statistics. Yet, it is not mentioned in the Norwegian debates that these numbers are not equivalent and not suitable for comparison. There appears to be a lack of scepticism, even a lack of any form of reflection, regarding who provides these numbers and what their objectives may be. While ethical debates regarding the Norwegian DNA database are definitely being discussed, it appears as if the numbers provided by the Home Office have trumped any scepticism towards the expansion of the Norwegian DNA database.

The Nuffield Council report illustrates and proves the need for input from independent organisations, with no self-interest in the debate. The report stands in contrast to other DNA reports more coloured by institutions with evident self-interest on the matter: the providers of more glossy reports on DNA forensics such as the Home Office and the Forensic Science Service. It was therefore with great pleasure that I read the Nuffield Council report, a report showing a more nuanced picture of the DNA database and its potential consequences. The report provides useful input on matters that might arise with the use of forensic DNA databases, matters such as familial searching and the inferring of ethnicity that are perhaps not the most evident when initially establishing or expanding a forensic DNA database. Discussion on these sorts of unintended consequences have been nearly absent in Norway.

The Norwegian debate on expanding the forensic DNA database has been thorough on a number of levels. However, having interviewed several Norwegian stakeholders in the DNA debate for my research – politicians, police, expert witnesses, lawyers – I have heard many raise concerns. The key issue seems to be the limited debate about some of the unintended consequences and ethical issues related to DNA databases. The Norwegian public debate would have benefitted from more pronounced consideration of the ethical dilemmas discussed in the Nuffield report. Unfortunately the report has not received attention in Norway, despite it being published just months before the question of DNA databases was up for debate in Parliament. A search on the report conducted on all electronically searchable Norwegian newspapers, as well as numerous other media sites shows that there has been no mention of the report in Norwegian media. This is unfortunate as a focus on the report would have made for a

more informed debate. Choosing to establish or expand a DNA database is an significant decision, worth taking with great care and comprehensive information.

With *The forensic use of bioinformation* report the Nuffield Council highlights ethical issues related to the use of bioinformation, with special attention given to DNA and fingerprinting. The time was overripe for this, not only because there is a general trend all over the world to expand DNA databases, but also because DNA is seen as reliable, trustworthy and secure evidence. DNA is expected to contribute to convicting the guilty and exonerating the innocent, and thereby to increase security on a micro and macro level: the individual's legal protection and society's rule of law. DNA may often be presented as rather one dimensional, simply as a security increasing measure, with less focus on the insecurities that may also arise with it, as was the case in the Norwegian debate.

The National DNA Database Annual Report 2005-2006 states that one of the strategic objectives of the UK National DNA Database is to enhance its position as the world's leading DNA database (Home Office 2006). By providing a thorough and reflected examination of the ethical issues, the Nuffield Council report can contribute to making the UK the leading nation on forensic DNA, not only in quantity but also in quality. But it is not only in Britain that there is a need for this focus. An increased focus on this may lead to more informed debates taking place elsewhere too. Let us hope that the report will have consequences far beyond the shores of the UK and that countries all over the world will widen their perspective on the use of forensic DNA databases and look to the UK and the Nuffield Council report when they come to debate their forensic DNA databases.

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