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Registering the Everyday: Documents, Bureaucracy, and the Socio-Legal

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journals.sagepub.com/home/sls**Jess Smith** 

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Abstract

The special section that follows examines registration as a technology of governance regulating the everyday. The introduction illustrates the motivation for the special section, which was an interest in the changing shape of registration over time, as the COVID-19 pandemic saw registration come to the forefront of public life, calling for a re-examination of the ways in which registration produces populations and affects lives. We conclude by outlining the contributions and key themes of the special section.

Keywords

Registration, documents, bureaucracy, everyday, state, justice

Introduction

During the COVID-19 pandemic, registration became visible as a daily practice of governance. Death registration was rendered a public and ocular ritual as mortality data was extracted from the register and streamed via mass media to provide updates on the pandemic (see for discussion, Trabsky, 2022). At the same time, the test and trace system

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enacted a spatio-temporal practice of registration as a movement to and through public space was listed, published, and responded to. As official uses of registration expanded, so too did public engagement with the written record, as citizens and institutions sought to catalogue daily experiences of life during a pandemic.

Registration, in this interaction, was disparate and flexible. The state took a functional approach to registration, relying on the extractive and abstract qualities of the register to gather data from which it could govern – a pattern which has long been associated with state governance (see for discussion, Goldman, 1991). The public sphere, and social media especially, developed a discussion of registration which focused on human experience, highlighting the subjective ways in which decisions about what to record are made. This discussion included deep political contestation over previously unseen, ostensibly technical decisions around registration. Matters including the wording of death certificates (Oliver, 2021), the time between event and registration (ONS, 2023), and the frequency of publishing registration data (Hancock, 2022) all entered public discourse, as everyday life became acutely responsive to registration in a heightened and highly visible way.

But there has been a consequential relationship between registration and the everyday since long before the pandemic. While the pandemic made this relationship visible to the public at large, for some groups, the capacity for registration to impact the everyday has long been an all too evident, seemingly inescapable aspect of their lives (see for discussion, Currah and Moore, 2009; Durbach, 2014; Spade, 2015). A range of scholarships from disciplines including Media Studies, Anthropology, and History have examined aspects of this relationship over previous decades (see for discussion, Vismann, 2008). The heightened relevance of registration during the pandemic suggested to us a need to revisit this scholarship and initiate a conversation about the contemporary role of registration.

Since its initiation in the 16th century, civil registration has undergone significant changes, from documenting Christian rites of passage to gathering population data from which to govern (see for discussion, Szreter and Breckenridge, 2012). These evolutions can be mapped onto broader social and political transformations including the Reformation, Industrial Revolution, and now, the digital age. During the COVID-19 pandemic, the longstanding requirement to provide information relating to a birth or death at a local registry office was removed, details were sent over the phone and documents were sent electronically (The Registration of Births and Deaths (Coronavirus) (Amendment) Regulations 2020). Given that registration is an adaptable process, as the example of registering vital events demonstrates, it is necessary to reflect on how states adapt registers for the purpose of governing, and the consequences of this for everyday life. If, as work engaging Law and Media Studies suggests, changing the form of registration has the capacity to change the substance of what is registered (Keenan, 2023; Vismann, 2008), what legal concepts, subjectivities, and relations are at stake as registers are digitalised, broadened in scope and integrated into new aspects of governance? As registers are capable of changing, what might need to be changed if the purpose was to advance social justice?

An art exhibition, *Unquiet Moments: Capturing the Everyday*, had been planned to show at Somerset House in London in early 2020, in response to the 50th anniversary

of the departure of the Register of Births, Deaths, and Marriages from the General Registry Office at Somerset House (Arts Council Collection, n.d.). Due to the pandemic, the exhibition was moved online, but this context brought into even sharper relief the need for and relevance of artistic and discursive reflection upon the human impulse to record. The exhibition asked participants to consider what an archive would look like if it recorded quiet moments rather than the landmark moments recorded by civil registration programmes, questioning how we as a society choose to construct archives of our lives, and with what consequences.

This special section was motivated by the desire to re-examine registration in light of the COVID-19 pandemic and locate opportunities to re-orientate the register from the ground-up. We invited contributors to reflect on everyday practices of registration, encompassing both formal, state-based practices of authentication and measurement, and less formal practices of recording and documentation. Our intention was to explore registration not solely as a bureaucratic tool of governance, but also as a practice constitutive of everyday life, asking how does the human impulse to document interact with official uses of the register? What are some of the unintentional and unexamined consequences of that interaction, and what insights into the social and cultural can a focus on the technical bring?

Adopting an expansive approach to the register, the papers consider cosmetic regulation, prison transfer forms, and professional registers. The papers are attentive to the history of registration as a technology of governance which produces populations whilst also offering future-orientated analyses of the ways in which documents may be redesigned to achieve social justice in the everyday. As they explore the multiple ways in which registers engage world-making activities, the papers are braided together along themes of materiality, relationality, governmentality, and the desire for everyday justice.

The papers address urgent questions concerning the constitutive power of registration to enact legal relations and formulate spatio-temporal imaginaries. How do governments see registration in comparison to other forms of regulation? How are marginalised subjects excluded by the legal and material form of the register? Can design-based approaches to legal form provide tools for developing registration for social justice? Is the register more flexible than it might first appear? And, if so, what are the consequences? Adopting an interdisciplinary approach, the papers draw from historical, anthropological, and spatial lenses to provide a critical and socio-legal account of registration.

Contributions

Lara Tessaro begins *Registering the Everyday* by reflecting upon how governments conceptualise registration as a technology for anticipating, preventing, and regulating harm. Tessaro's case study focuses on a moment of governmental hesitation in mid-century Canada when a range of state actors wrestled with the dangers posed by cosmetics. Drawing on archival research, Tessaro illustrates how the state pivoted from understanding registration as an anticipatory technology to a recording device for revealing harms caused by everyday toxins, before ultimately rejecting registration altogether.

Tessaro's archival sources are interweaved with literature on law's temporalities and materialities to contribute a legal history of registration governance. As we see, this legal history makes an important contribution to socio-legal discussion theorising the conceptual and material form of registration by illustrating how the state understands the relationship between registration and other modes of regulation.

The discussion on how registration is conceptualised as a technology of governance continues as **Aisling Ryan** explores, to use her term, 'the form of forms' (Ryan, 2023). As she engages with socio-legal design-based theory, Ryan asks whether bureaucratic forms can ever be reframed into tools for social justice – and, if so, what this might look like through design-based praxis. The paper focuses on a form used by applicant prisoners requesting to serve the remainder of their sentence in their own country under the Convention on the Transfer of Sentenced Persons. The form used for such transfers by the National Offender Management Service was criticised by the Irish High Court as providing insufficient space for narrative. Ryan combines socio-legal inquiry with design theory and dialogic design to reflect on how we might better design bureaucratic forms as everyday enablers of access to justice. Ryan's paper, in doing so, contributes to an evolving discussion on whether registration and bureaucratic practice can ever coalesce with the aims and needs of social justice (see e.g. Newman, 2020).

Marie-Andrée Jacob and Priyasha Saksena close our discussion by examining what crises do to registration as they explore modes of emergency and temporary registration in the regulation of healthcare professionals. Jacob and Saksena analyse a trajectory of fragmentation to the concept of the register from World War II to the COVID-19 pandemic. The paper interrogates four moments which shaped the creation of the General Medical Council's List of Registered Medical Practitioners including the perceived need to manage medical graduates from the UK's colonies, the European Economic Community, responding to labour market pressures, and the COVID-19 pandemic. Whilst registers may take the appearance of unitary, enduring, and stable legal artefacts, Jacob and Saksena draw attention to the inherently flexible, instrumental, and precarious nature of the written record and its use in public life.

Key Themes

As they responded to our brief, the papers outlined above set out to explore the intersections between how states conceptualise registration and the appearance of registers in daily life. How might this interaction challenge assumptions traditionally made about the register as a techno-legal device of writing, stasis, and power? Whilst states may conceive registration as a technology of regulation orientated towards extracting data and creating enduring and stable facts from which to govern, does this 'bureaucratic logic' (Trabsky, 2022) follow through into the everyday? Is there space to disrupt the 'form of forms' (Ryan, 2023) or to reveal the inherently instrumental and fragmented nature of the register itself (Jacob and Saksena, 2023)?

A key theme in the contributions to *Registering the Everyday* is the insights provided into how states conceive of registration as a technology of governance or 'how states see', to borrow from James C Scott (1998). Whilst the papers draw on a range of methods

across socio-legal inquiry, design theory, and legal history, each of the papers explore the state's perspective on registration. The papers, as a collective, provide insights into how registration is regarded by state actors: as an ocular tool of regulation (Tessaro, 2023), a malleable instrument to manage crises (Jacob and Saksena, 2023), and in relation to the form, they invite us to explore what registration and legal documents might need to become, if they are to have any role in advancing social justice (Ryan, 2023). What roles can be played by narrative, flexibility, and sensitivity to the relationship between the material everyday and the abstraction compelled by the register?

The papers also speak to some of the methodological promises and challenges of registration. The papers draw from a diverse range of methods including archival research, legal history, and socio-legal design – a patchwork of methods revealing insights across a range of temporalities. Is there something particular about registration which makes it so open to different methodologies? In some ways, this openness might be due to the fragmented nature of registration itself. Despite the appearance of registration as all-encompassing, the register is never just one thing. Registers adapt and bend, give way to other means of regulation, and draw knowledges from a range of temporal inquiries including speculation about their consequences, looking backward to social world (Yngvesson and Coutin, 2006) and attempting to keep pace in moments of acceleration and crisis (Trabsky, 2022).

Ultimately, then, the papers in this special section offer insights into the challenges of evolving registration into a tool for social justice. Here, there are warning signs. As Jacob and Saksena show us, registers are far more flexible than they might at first appear. Yet, this flexibility seems to be at the whims of the state. It is the author of the register who can adapt it to fit the purpose and much less so the subject. We must also consider, then, whether resistance should take the form of abolishing the register and critically examining its assumed necessity in modern life. This discussion has already begun, for example, in relation to birth registration systems (Davis, 2021) and the certificate it produces (Cooper et al., 2022) as several jurisdictions consider their position on the use of registry systems to capture data.

What next for critical registration studies? Since Cornelia Vismann's (2008) observation that the material tools of law and, in particular, its files and written records, are often overlooked, there has been an increased attention on registration, documents, and bureaucracy. The birth certificate, for example, has formed the subject of analysis in relation to legal identity, gender, and kinship (Cooper and Renz, 2016). Similarly, the documentation of non-human material has been explored through a wide range of case studies including vehicles and license plates (Giddens, 2020), medical tests (Stagg-Taylor, 2013), zoo animals (Braverman, 2012), and land registration (Bhandar, 2018; Holder and McGillivray, 2020; Keenan, 2019). The papers which follow contribute an additional reflection on prison transfer forms, cosmetics, and crisis.

This special section questions what conceptual tools we might need to reconcile registration, in many ways a tool of considerable privilege and power, with social justice (see further, Smith, 2023). The pandemic brought to the forefront the politically and socially contested nature of registering everyday life. Critical registration studies must contribute further understanding of how relationships, identities, objects, and professions, are legally recorded – and, vitally, the political consequences of decisions made about

legal registration. One way in which this might be done is by expanding our understanding of what registration is and how it interacts with everyday life. Critical legal and socio-legal scholarship has tended to focus, for example, upon textual analysis to explore the political and social implications of recording everyday life. Yet, to advance registration for social justice, we may need to challenge its associations with models of stasis or endurance – and instead, look towards its spatio-temporal dynamics (see for discussion, Smith, 2023). The papers which follow take steps towards this as they consider flexibility, narrative, and attention to historical contingency as means by which the relationship between the abstraction of registration and the materiality of everyday life can be made more apparent.

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