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Identification and Registration Practices in Transnational Perspective

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Edited by
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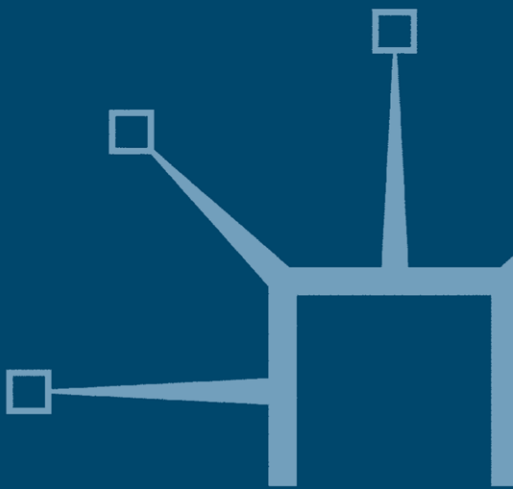
Gayle Lonergan



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In Association with St Antony's College, Oxford

Softcover reprint of the hardcover 1st edition 2013 978-0-230-35438-8

First published 2013 by
PALGRAVE MACMILLAN

Palgrave Macmillan in the UK is an imprint of Macmillan Publishers Limited, registered in England, company number 785998, of Houndmills, Basingstoke, Hampshire RG21 6XS.

Palgrave Macmillan in the US is a division of St Martin's Press LLC, 175 Fifth Avenue, New York, NY 10010.

Palgrave Macmillan is the global academic imprint of the above companies and has companies and representatives throughout the world.

ISBN 978-1-349-34643-1 ISBN 978-1-137-36731-0 (eBook)
DOI 10.1057/9781137367310

This book is printed on paper suitable for recycling and made from fully managed and sustained forest sources. Logging, pulping and manufacturing processes are expected to conform to the environmental regulations of the country of origin.

A catalogue record for this book is available from the British Library.

A catalog record for this book is available from the Library of Congress.

Typeset by MPS Limited, Chennai, India.

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Introduction

Ilsen About, James R. Brown and Gayle Lonergan

This book, the product of a series of workshops held under the auspices of the IdentiNet research network, reflects the advent of a new topic – personal identification – as an established research area in social science.[1] A decade after the publication of the pioneering work by Jane Caplan and John Torpey, *Documenting Individual Identity*, the theme of modes of identification, in the past and present, has become clearly established as a subject for scholarly research.[2] This field of research has exploited a variety of angles from which we can approach the conditions in which identities are manufactured or manipulated. As a consequence, we now have an ever-increasing body of work that allows us to view a new subject, the 'history of identification', across time, from the ancient origins of human societies to the most recent developments and mutations of global surveillance.[3] In this collection we have brought together work that reflects the latest research in the linked areas of identification and surveillance studies, and which we hope will stimulate further research across disciplines, including law, IT and medicine as well as the more usual angles of history or sociology. Although the studies range widely over both centuries and continents, their common element is that they all illuminate different aspects of that deceptively simple question, 'Who are you?', as asked in the original Caplan and Torpey work, which poses a question about identification by another rather than the more common, 'Who am I?', in which individuals search for an identity. The attempt to answer that question has involved a variety of proofs, from written documents to bodily characteristics, from spoken testimony to numbered identifiers. Scientific proofs in the form of biometrics currently rule the political agenda, but the use of the body itself as the source of a unique identifier has a long history. This has been a history mainly of failure and

dissimulation – themes that are directly addressed in this collection, and that show how fraudulence and falsification can be seen not only as stories of personal dissimulation, but as a window into how political and social frameworks of identity can be both internalized and evaded. Given this, current policy makers would find it salutary to look more carefully at the history of the failure, usurpation and bypassing of grand projects to identify and categorize individuals.[4]

Among the other new insights explored in this collection is the disclosure of the intimate relationship between the engineering of identification systems and institutions and a whole set of adjustment and negotiation responses, both individual and collective. This relationship, which constitutes the character of the *historical regimes of identification*, has yet to be comprehensively explored.[5] But by redirecting our attention from the end result to the process of identification, this new angle of study reveals the levels and qualities of interaction between the state and the citizen, whether these are in the unintended uses of identification technologies, the degrees of negotiation required at all stages of identification, or outright resistance to the interventions and demands of the state.

A further area of research that this volume introduces, and which is among the least explored but most promising directions, is the increasing takeover of individual identification by corporate bodies for economic purposes. Identifying individuals has been treated as one of the hallmarks of the modern nation state intent on managing its population politically, yet it is important not to adopt a foreshortened historical perspective. Seeing this as a wholly new phenomenon would overlook the long history of commercial interests in the development of proofs of identity and fraud evasion. Indeed, the need for forms of personal identification in commercial and property transactions arose long before the nation state began to take an interest in individual identity. At the same time, we do need to recognize the emergence of new and mixed forms of governance alongside the state, in a complex realignment of power over information between the political and the corporate; and here, identification begins not only to fulfil the needs of commerce but also to shape and reflect the expectations of the citizen consumer. New government schemes follow the lead set by commercial enterprises, rather than the state's being an autonomous force in identification technology, producing a situation that David Lyon describes as a 'card cartel'.[6] The implications of this for privacy and human rights present a promising area for future work, signalled by the contributions in this volume by Higgs and Szreter.

Identifying and the identified

It is now becoming increasingly possible to outline a defined topic of academic study that will make sense of the formation of political and social systems that have organized and fixed identities over the centuries – something we might call the *engineering of identities*. This process of engineering can be seen as the product of a series of systemic historical developments that provide opportunities for much fruitful analysis.

Migration, mobility and identification

The issue of migration, both ancient and contemporary, is one of the core themes of this research into the history of identification. The scale, acceleration and varied purposes of mobility in the modern world have complicated relatively stable and limited relationships between governments and those they govern, and have induced central authorities to design schemes that count, register and track individuals. Fixing the name and civil status of a person, as well as his or her social status and class, goes some way towards guaranteeing the stability of this relationship, and reassures the central administrative apparatuses that the situation is under their control. The relation between identification and migration has highlighted what seems to be a natural connection between human mobility and the impetus to recognize the person as an individual – in this case, to accurately establish the personal identity of migrants. But the internationalization of data exchanges and the rise of biometrics have also brought under critical scholarly scrutiny the older premise of identification as simply a means of controlling and monitoring migrants. As a consequence, global surveillance and the policing of borders or transport facilities are being investigated from many additional angles. New studies have looked at such diverse issues as the connection between innovative technologies and political aims, the globalization of identification techniques and the excessively intimate relationships between states and private companies in the computerization of ID. These are some of the main topics at the centre of what seems to be an unstoppable expansion of research on this subject.[7]

Under the impact of these contemporary trends, historical studies have also revisited some of the traditional questions associated with mobility. The contemporary fixation on borders and the policing of migrant movement in borderland regions has provoked intense reflection on one of the most significant transformations of mobility between the early modern period and the twentieth century.[8] This

research focuses on defining the means used to identify migrants at the borders and the transformation of the border itself, from a fictive line to a concrete barrier or a custom house, replete with flags and signs in front of fences, walls and checkpoints.[9] Within this period, however, the bulk of the historical research into migrant control and policing has mainly focused on the nineteenth and twentieth centuries, when the consolidation of state activity and the influence of an ethnopolitical conception of the nation tended to define the difference not only between an insider and an outsider, but also between citizen and non-citizen, national and non-national. This period is characterized by mass migrations, the nationalization of state apparatuses, the creation of special institutions dedicated to the control of migrants, the building of transnational tools (e.g. the passport) and attempts to regulate and standardize international migration.[10] Understandably, the period between the two world wars has attracted a great deal of attention.[11] The construction of giant card-indexes and centralized control systems and the multiplication of ID cards were complex phenomena influenced by multiple factors, starting with the first modern crisis of statelessness. The interwar economic crisis also enhanced the impetus for regulation and extended the possibility of expulsions, while the concomitant political tensions triggered the exile of hundreds of thousands of refugees and the creation of statelessness. In the case of the Jewish refugees, people were caught between the injunction of state necessity and the struggle for life.[12] In this period too, historians have registered an expansion of the scope of nation state identification policies, to embrace not only the control of foreigners but also the mass domestic identification of citizens. In a sense the 'border' has become a meaningless concept, with the policing of the provision of visas pushed out to embassies abroad, or even to foreign countries for those surrounding the European Union (EU). Internally everyone has to be identified to control illegal immigration, so everyone becomes subject to immigration controls. The parallel extension of red tape and identity control practices reveal a turning-point that is still under examination.[13]

Bureaucracy and identification

More generally, identification issues have rejuvenated and led to a reappraisal of the study of social control, not only by emphasizing the importance of general registration operations through censuses or civil status systems, but also by detecting a level of variability that hitherto had been neglected.[14] This challenges the neo-Weberian thesis that extreme bureaucratic rationalization and unlimited administrative

power were motors of the process of identification, seen as an unnecessary evil brought by the increasingly intrusive nation state.[15]

While aspects of such a general model remain relevant, the multiplicity of population surveillance mechanisms and the intervention of short-term, local or regional factors are proof of the diversity of approaches to identification and the need to refresh our frameworks of analysis. In addition, the study of non-governmental organizations (NGOs), private bureaucracies and cultural or religious agencies has shown that identity determination has not been the exclusive preserve of governments and nation states.

We are now beginning to appreciate a more 'positive' way of looking at ID documents and state registration, in which the official identification of the individual transforms into its alter ego as an act 'recognition' that carries attendant benefits of rights and security. As a recent publication on civil registration emphasizes, non-registration 'is an even more disabling birthright lottery than the inequalities that go with registration'.[16] Studies in this volume also demonstrate that official identification is by no means simply an indifferent weight of forms and red tape. The paper document or number identifier have conferred and continue to confer recognition, privilege and certain rights. In the classic dystopian novel of bureaucratic remoteness and high totalitarianism, Yevgeny Zamyatin's *We*, all citizens are known by a number.[17] Throughout the twentieth century this numbering of individuals has been linked to some of the worst excesses of totalitarian regimes; it is a condensed image that acts as a shorthand message with the meaning of a dehumanizing or desensitizing system or state. Yet it can also serve as a practical and valuable short form marker, which ensures access to health care services and other areas where recognition in the eyes of the state enables rather than disables the citizen.

Identification and empire

This unstable balance of rights and duty in a society may then be integrated into a wider spectrum of practices, which transcend the boundaries of national political systems. In the study of imperial or colonial societies, it has become increasingly important to understand how categories were created and identification systems designed in order to grasp the nature of regulatory procedures between the centre and the periphery, as well as within the peripheries.[18] As with the expansion of research on bureaucratic nation state practices, identification and registration arrangements in a colonial context should not be viewed simply as a reflection of the coercive nature of the authority and

practices of domination, although they undoubtedly played a clear role in the consolidation and expansion of colonizing power. During the nineteenth century, the spread of empire and the opening of the world to globalization accelerated the need to standardize certain social criteria, one prime example being the homogenization of official naming practices. For police, military or fiscal reasons, the imperial state needed to register the population but, conversely, in order to benefit from institutions providing assistance, education and transportation, people needed to be able to interact with the multiple expressions of the state. In this imperial context, imported methods of individual identification, albeit highly adapted to the colonial context, played a significant part in the establishment and demarcation of communities and classes of population.[19]

Another imported technology, the fingerprint, has also generated an exceptionally rich vein of research.[20] By a unique transmission of technologies and knowledge along a road traversing Calcutta, Bengal, Japan and London, a scientific corpus dedicated to the description of the fingerprint rapidly emerged, and its use swiftly extended across the entire Indian subcontinent within a few years, mixing police and civil practices, creating a model of expansion that implicated the entire world.[21] In this and many other mechanisms of identification, native populations were not only the objects of registration but also operated these systems as members of the colonial police and bureaucracy.[22]

New perspectives on the history of identification

This collection of new contributions to the history of identification, classification and social taxonomies represents the diversity of research on the subject, without exhausting it. Given the extent and variety of this new research and its partially overlapping themes, the book is divided into three broad sections, which between them convene the major research themes explored in this Introduction: state identification techniques; non-state or extra-state identification systems; and grass-roots resistance to or accommodation of these techniques. We are aware, perhaps more than many other editors faced with the task of organization, that any classification will be to some extent arbitrary, but we hope that these categories and the choice of essays assigned to them will offer a productive juxtaposition of the general and the particular.

Most striking in this volume is the sense of how populations have long been participants in the registration and identification systems built up over centuries, pre-empting and manipulating them beyond

the intention of the framers of these systems. Even in the section on the state, we constantly encounter ways in which the population accommodates, resists, makes use of and even prefigures bureaucratic attempts to identify and track them. This expands the limits of thinking on identification and surveillance, and adds vital nuances to the picture of the state as an omnipotent force. If the process of identification remains a paradigm by which we can understand the relationship between social order and individual rights, the examinations of identification practices and techniques presented in this volume modify the portrayal of the inevitability of state surveillance by adding a dimension in which the state is trailing behind society, trying to fill in ever-opening loopholes or providing ancillary services to non-state agents.

A major theme running through most of the chapters is the inability of the state to provide a dynamic, comprehensive and fully responsive system of identification. Attempts to capture a society in totality seem doomed to failure as it mutates and responds to new social and economic circumstances faster than bureaucracies are prepared to review their methods and structures for recording and registering a fluid population. In Jane Caplan's work even one of the most chilling examples of identification, the identification of Jews in Nazi Germany, was open to subversion by the simple method of a fraudulently acquired post office book, which had long been accepted as a form of identification. In an extraordinary example of function creep, the easily obtainable post office book could be accepted as a form of identification as a result of the failure of the more stringent *Kennkarte* or ID card, which failed to provide a comprehensive identification scheme owing to a lack of funds and the personnel to administer it, and perhaps to a belief that its primary political objectives were fulfilled more effectively by other means than a universal ID card. In an in-depth study of residential registration in Moscow, Gayle Lonergan demonstrates how the bureaucracy of late nineteenth-century Tsarist Russia was constantly trailing behind the changes that society was undergoing and still trying to fit its subjects into a societal structure dating from the time of Peter the Great. The work of these imperial administrators was doomed to failure as their attempts to amend legislation could not keep up with the speed of social change. In the wake of such drastic economic and social change the subjects of the Tsar/Emperor had started to behave unnervingly like citizens of a modern state, with even such disenfranchised members of the population as women and Jews expecting such freedoms as mobility and freedom of residence. In a comparative contemporary study of Japanese residential registration (*koseki*), Karl Jakob

Krogness also examines how modern-day Japanese society manoeuvres around an outdated system, which was originally established to ensure order in a pre-modern society but now finds itself in collision with the citizen's claims to personal rights. Each of these examples demonstrates that legislation or decrees by themselves are not enough to ensure the acceptance or efficacy of a system of identification, even in a strongly coercive state.

Then there is the facilitating or user-friendly aspect of identification schemes. For many of us the idea of being identified by a number conjures up images of Big Brother or the tattoo on the arm of an Auschwitz survivor. However, the chapter by Ian Watson presents us with the scenario in Iceland where the *kennitala*, a birth date number identifier introduced to support a National Register, is happily used by the population as an addition to the personal name despite some concerns over privacy and abuse of databases. This popular adoption of state registration practices for individual use can also be seen in Simon Szreter's work on the endurance of the parish registers in England. It is not enough for the state to decree, 'thou shalt be registered'. What is vital for longevity and efficacy is its use by the population and the usefulness they ascribe to it.

The well-known story of Martin Guerre has long provided a striking illustration of the difficulty of proving either a positive or a negative identification. This volume pursues this theme with historical and contemporary case studies that confirm the complexity of proving who you are and who you are not. Identification is not a simple black-and-white issue of truth and lies or real and fraudulent. It is a fluctuating and unstable process, the course of which can be interfered with or diverted by both state and individual actors. Underlying this difficulty is the continued use of reputation and non-official channels of identification in state transactions. Vincent Denis' account of post-revolutionary France brings to the fore the tension between an increasingly urban and anonymous population and the state's desire to account for its population. Reliance upon local knowledge persisted even as the state began to demand that more and more paperwork be attached to the individual citizen. Claudine Dardy's essay continues this idea as she traces a similar tension between local custom in former French colonies and the implementation of registration systems by the modern French nation. Here we have an example of how traditional rituals and customary practices in the peripheries either uncomfortably coexist with orders from the centre or have to be merged with official systems of civil status. Ilsen About uses interwar France as a case study to examine the strain generated by the imposition of these identification and

registration techniques on those who were fleeing conflict or repression in their own nations or had ended up stateless. The rise of nationalism and the growing 'passportization' of population movements meant that all immigrants were now treated as suspicious individuals who were expected to provide a paper chain of evidence to prove their trustworthiness. As Melanie Griffiths shows in her uncomfortably thought-provoking essay on illegal immigrants in Britain, this tension remains a significant issue in contemporary global society, where there is an unacknowledged hierarchy of identification across the world, despite the ostensible standardization of such documents as passports. This hierarchy can have damaging outcomes for those coming from areas of the world where reputation still plays a more important part in identification than documents, or where identification processes are seen by external authorities to be somehow second-class or dubious.

A natural corollary of the study of the mutation of state practices by informal accommodations and manoeuvres is the question of organized resistance. In Pierre Piazza's essay we see that the central theme of resistance in France to biometric databases is an opposition to the attempted colonization of individual 'lifeworlds' by the state, as it creates new enemies and attempts to defeat them by the filing of ever-increased types and quantities of data.[23] Of course much resistance is informal and illegal, since formal structures always usher in a host of 'cat and mouse games', as the original Caplan and Torpey volume phrased it. Uma Dhupelia-Mesthrie offers an enlightening survey of the attempts to evade immigration crackdowns in the former Cape Colony. This study of centralized checks and restrictions is another example of how the state impedes and encumbers movement by a cumbersome bureaucratic check and is then required to grant amnesties and rationalize its own system as it forces many immigrants into a criminal space. Once more we see that it is not enough for the state to decree registration or identification systems. They need to fit into the realities of the society if they are to be accepted or if the state is not to defeat its own purposes by excessive measures of coercion.

The study of identification practices also contributes to the growing field of transnational knowledge exchanges. At the end of the nineteenth century, the science of dactyloscopy was a prime example of intensive work by specialists around the globe to expand and standardize the methods used in this new form of identification. Mercedes García Ferrari describes the contribution of the Argentinian police officer Juan Vucetich to the development of fingerprinting as an accepted and standardized item of forensic technique. Taken together with what we

already know of the history of fingerprinting in India, this case study underlines the multiple sources of fingerprinting, for parallel attempts to create a universally recognized system were genuinely global in their span, straddling South America, India, Western Europe and North America. However, as Massimiliano Pagani's chapter on a notorious case of identity fraud in fascist Italy demonstrates, the seemingly inexorable progress of fingerprinting as a scientific proof was interrupted by the traditional practices of the Italian courts and societal prejudices. Once again we see how reputation, social status and traditional practices outweighed the proof provided by a few smudges of black ink. This case provides an early example of the questions and doubts that began to undermine the role of fingerprint experts in the 1990s.

With this more recent discord on the use of the fingerprint as a means of supporting scientific policing the state now looks to more recently invented biometric technologies in an attempt to close loopholes and to provide neutral or more stable identification systems. Nevertheless, the neutrality of such technologies has been questioned in more than one arena, as the essays by Simon Cole and by Emilio Mordini and Andrew Rebera make clear. The purported neutrality of such technologies as fingerprints and genetic markers is highly questionable; the technology is no longer viewed simply as an objective tool of police forces around the world but has been put into question as a legal, ethical and philosophical problem. Simon Cole questions the neutrality of genetic markers and underlines how the simplistic differentiation between a subjective identity and an objective process of identification is now breaking down. DNA is even more correlated to ethnic and behavioural traits than the fingerprint and hence has gone into the arena of phenotypic profiling, more reminiscent of Galtonian profiling than a neutral form of identification. As such it has gone further in undermining civil rights and liberties than other forms of identification. Mordini and Rebera discuss how so-called weak forms of biometrics, behavioural and electrophysiological, are now used to identify intention or potential for action as a way of screening for certain types of behaviour and are seen as a form of proactive security measure, preventing a possible action before it can take place. This questions the measurability of biometric indicators, since an intention that has not been acted upon remains inaccessible to biometric profiling as such. Such potential indicators are nothing new but belong to the long history of profiling, which has a very dark side in the eugenics movement.

Edward Higgs brings up the important point that the state is now inclined to follow the lead of industry and corporations in its attempts

to provide security and civil order, as it is in the commercial world where identification tracking has been undergoing a major, somewhat overlooked, boom in the last half century. The paucity of studies on the role of corporate identification, especially its history, emphasizes the potential for future work in the area of identification.

Despite the variety and the breadth of research in the current volume, which encompasses so many regions as well as such a variety of themes and empirical case studies, it is clear that there are still many more avenues of research to be explored. While a nod to future research is usually the final word in the introduction to such collections, for those involved in the IdentiNet network from which this volume emanated, it is also clear that identification as a subject of individual study is now well established and promises to be a stimulating and provocative field for future research, discussion and dispute.

Notes

1. The IdentiNet Network was funded by a two-year grant to the University of Oxford from the Leverhulme Trust (F/08 100/A, 2008–10). Its directors were Jane Caplan (PI) and Edward Higgs, and the Network administrator was James Brown. The two workshops from which this volume is derived were held at St Antony's College, Oxford, in September 2008 and September 2009. The directors, the editors and the contributors to this volume acknowledge with gratitude this support, together with that of the Universities of Oxford and Essex and St Antony's College.
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3. E. Higgs (2004) *The Information State in England. The Central Collection of Information on Citizens, 1500–2000* (London: Palgrave); V. Groebner (2004, trans. 2007) *Who Are You? Identification, Deception, and Surveillance in Early Modern Europe*, trans. Mark Kyburz and John Peck (New York: Zone Books); X. Crettiez and P. Piazza (eds) (2006) *Du papier à la biométrie. Identifier les individus* (Paris: Presses de Sciences Po); G. Noiriel (ed.) (2007) *L'identification. Genèse d'un travail d'état* (Paris: Belin); V. Denis (2008) *Une histoire de l'identité. France, 1715–1815* (Seyssel: Champ Vallon); D. Lyon and C. J. Bennett (eds) (2008) *Playing the Identity Card. Surveillance, Security and Identification in Global Perspective* (London: Routledge); K. Breckenridge and S. Szreter (2012) *Registration and Recognition: Documenting the Person in World History* (Oxford: Oxford University Press).
4. Groebner (2004) *Who Are You?*. See his final chapter where he makes the argument on the continuity in identification practices from the Middle Ages to the present day.
5. I. About and V. Denis (2010) *Histoire de l'identification des personnes* (Paris: La Découverte).
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14. See in particular H. Roodenburg and P. Spierenburg (eds) (2004) *Social Control in Europe*, 1, *1500–1800* (Columbus, OH: Ohio State University Press); C. Emsley, E. Johnson and P. Spierenburg (eds) (2004) *Social Control in Europe*, 2, *1800–2000* (Columbus, OH: Ohio State University Press).
15. Caplan and Torpey (2001) *Documenting Individual Identity*, p. 5.
16. Breckenridge and Szreter (2012) *Recognition and Registration*, p. 1. This research group itself arose from the IdentiNet research network, hence the overlapping of some ideas particularly in the area of civil status and registration.
17. E. Zamyatin (1921, trans. 1993) *We*, trans. Clarence Brown (New York: Penguin Books).
18. Among others, see I. Grangaud and N. Michel (eds) (2010) 'L'identification. Des origines de l'islam au XIX^{e} siècle', *Revue des Mondes Musulmans et de la Méditerranée*, no. 127.
19. Focusing on the most fragile or flexible categories, such as vagrants, criminals, prostitutes and foreign workers, Anne Stoler has proposed some

completely new perspectives on the creation of colonial categories: see A. L. Stoler (1989) 'Rethinking Colonial Categories: European Communities and the Boundaries of Rule', *Comparative Studies in Society and History*, 31:1, 134–161; A. L. Stoler (2002) *Carnal Knowledge and Imperial Power. Race and the Intimate in Colonial Rule* (Berkeley: University of California Press).

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23. Pierre Piazza refers very relevantly to J. Habermas (1981, trans. 1984–7) *The Theory of Communicative Action*, trans. Thomas McCarthy (Cambridge: Polity).

Part I
The Central State: Systems, Standards and Techniques

1
Individual Identity and Identification in Eighteenth-Century France

Vincent Denis

Introduction

Any work on the history of identification begins with a narrative,[1] and this one is no exception. In the middle of the sixteenth century, in the French Pyrenees village of Artigat, an unhappy young man called Martin Guerre, who had left his wife and children to serve in the army, came back home after several years of absence.[2] We know now he was an imposter, but the local community accepted him for a few years. When doubts were raised about his identity and the case brought to court, it proved very difficult to establish with certainty if this man was the true Martin Guerre: the judges had to make their decision after discussion of the testimonies of local inhabitants about the Martin Guerre who had left the village many years before – his accent, the size of his *sabots* or scars and marks on his skin that he was supposed to have. The case was eventually closed by the dramatic return of the real Martin Guerre. More than a century later, in 1832, Honoré de Balzac wrote a rather different tale in *Colonel Chabert*, a fiction, but echoing several cases of impersonation and missing people that took place in France after the turmoil of the French Revolution and the wars of Napoleon. In this novel, Chabert, an officer of Napoleon's army, was reported as dead in Russia, and his young widow married a rich aristocrat at the beginning of a spectacular social ascent. The unexpected return of Colonel Chabert jeopardized all of this. But Chabert was unable to regain his identity and to be accepted by his fellows. Rejected by his wife, he faced a new legal order, based on papers, bureaucracy, *état civil* and *actes authentiques*. Eventually he finished his life in a hospice, his identity reduced to a simple number.

These two stories show us the essence of the act of identification: to establish the continuousness of an individual through time and space,

by comparing some of his or her characteristics with previous data, material or immaterial.[3] But they also indicate some fundamental gaps in the history of identification in France. In sixteenth- and seventeenth-century France, personal identity was based on interpersonal relationships, shared experiences and social bonds tied between the members of embedded communities, from family to the parish and the surrounding places. Conversely, a traveller venturing outside the sphere of interpersonal relations became unknown, and, deprived of this web of social ties, was no longer recognized, that is, identified. Balzac's *Colonel Chabert* singles out the decisive role of written legal procedures and documents.

Between these two periods, the significance of identification in French society radically changed. Their comparison suggests a tremendous shift in the history of the procedures of individual identification. Shifts in identification in France had been linked with the development of the legal registration of births and deaths, and the institution of passports in 1792 for every traveller during the French Revolution. However, this narrative overlooks other practices of legal identification, which were very common, and does not explain how people moving outside their village or town could be identified with certainty before the French Revolution. In this chapter, I will argue that the state and especially the police, which faced increased mobility and urban expansion, introduced radically new standards of identification during the eighteenth century. They started applying new techniques and instruments to identify individuals, in order to know and control a lower class, which was becoming more and more anonymous. The eighteenth century was marked by the growth of written identification procedures, the development of the administrative machinery dedicated to them, and the extension of identification techniques based on written and impersonal certificates. But the 'police' were not a unified or central administration at that time. Different institutions shared the power to issue police regulations but also exerted police powers in a more limited sense, for the maintenance of order. It is thus important to consider the circulation of norms, instruments and techniques among protagonists, who contributed to the definition and enforcement of the rules of identification. This chapter will explain the emerging focus on written identification among the royal administrators and will describe the means the police used to introduce new identification techniques.

A breakthrough in the setting of new norms and instruments of identification occurred in France after the long reign of Louis XIV, as part of a series of reforms implemented by bold ministers and councillors of state, surrounding the young king Louis XV, aged 5. These reformers

wished to transform the domestic administration of the kingdom, but of primary concern was the disastrous social and economic situation of the kingdom, after the War of the Spanish Succession (1701–13), itself preceded by twenty-five years of almost uninterrupted military conflict. This shift toward a more rational government, based on technical knowledge, bureaucracy and information, was part of a general transformation of the French central state in the 1720s, visible in such developments as the promotion of statistical knowledge or the creation of a body of royal engineers to build a national network of roads.[4] For the administrators and those in charge of the maintenance of law and order, the practices of identification began to play a crucial role in the exercise of the government and the ordinary 'police', for maintaining order and the social cohesion.

A coherent model appeared under the Regency of Philippe of Orleans (1715–23), as the royal state was simultaneously challenged by the conjuncture of economic crisis, the plague of Marseilles and the demobilization of Louis XIV's army.[5] Between 1716 and 1724, a series of initiatives were adopted that touched on several domains of the royal administration, all of which included the use of new tools of identification. The parallels between administrative initiatives are instructive. The monarchical government applied similar measures for the limitation of mobility to resolve a variety of problems – to control the movements of vagrants, to arrest and punish beggars and recidivists from 1718 to 1725, to stop the desertion of soldiers with the royal declaration of 1716 and to prevent the spread of the plague beyond Provence.[6]

Reflecting on the practices of the army is particularly useful, as this was an institution that played a key role in this evolution. Inaugurating these new measures, the royal edict of 2 July 1716 had to address not only the challenge of demobilizing the immense army inherited by Louis XIV and its reorganization on a more rational financial and disciplinary basis, but also the problem of desertion.[7] The new regulation established the formalities for both conscription and leave for each soldier: in fact, it regulated all aspects of soldiers' movements – their conscription, their demobilization and the measures to be taken against desertion. This edict introduced standardized passes for temporary leaves from duty, called *cartouches*, and registers for better control of troop numbers, in which the officers had to write down the identity of each soldier at his enlistment. A copy of each register was to be sent to the War Offices with the names of deserters, which considerably simplified their research. Finally, soldiers would be obliged to present standardized leave certificates identifying themselves, so also permitting the identification

of deserters who were not in possession of these certificates In 1716, all the soldiers were to be recorded in a vast series of standardized central registers, the *contrôles des troupes*, located at the court in Versailles. No soldier could leave his regiment without a printed, standardized certificate containing his name and physical description.

The measures implemented in the campaigns against begging, undertaken during the Regency, also contained rather strict provisions: at certain periods, official passports were obligatory for travel for beggars and even for the working population, first in several provinces, as in Auvergne in 1718, then in the entire kingdom.[8] In 1724, in a renewed attempt to 'eradicate mendacity [i.e., begging]', a central register of the beggars and vagrants arrested in the kingdom was established at the General Hospital in Paris. This included their physical description – to 'remove any hope of impunity' for recidivists, according to one of its fiercest advocates, the Attorney General of the Parliament of Paris, Joly de Fleury.[9]

The struggle against the spread of the plague seems related to this shift. It led to the reactivation of traditional measures to control the movements of people and goods by identifying them and certifying their origin, using *billets de santé* – individual health certificates issued to healthy travellers by local police authorities that had been common in Europe since the sixteenth century at least.[10] But the decisions taken after 1720 went far beyond previous actions. Entire provinces were put under the control of the sanitary police, coordinated from Versailles.[11] Heavily guarded sanitary cordons, called *ligne* or *mur* of the plague, were established to isolate the infected territories of south-east France.[12] The army enforced the control of a health certificate necessary to move around or leave the regions affected by contagion.

In each of the cases examined above, the measures implemented by the royal administration represent common features. So, in the absence of a deliberately planned project, a body of more or less coherent principles and techniques gradually appeared as a consequence of dramatic circumstances. The certificate and the register now formed an inescapable pairing. Deserters and vagrants were by nature difficult for the state to 'capture'. The monarchy then concentrated its efforts on the identification of all the soldiers, prisoners, migrants and travellers in a given space. The new measures reversed the old logic of stigmatization. In each case, it was the lack of 'papers' that defined a member of a fringe group, enabling the state to distinguish the soldier from the deserter, the good worker and deserving pauper from the ne'er-do-well vagabond, the 'healthy' individual from the 'potentially diseased'. This

then was a case of reverse identification in which the administration identified the reverse or the opposite of the group they were actually attempting to discover, as with the soldiers for the deserters. This principle was probably not new. But its recurrent use by the French monarchy on an unprecedented scale was.

However, the progression of these measures was far from being linear. Once the fever for reform and the challenges of the Regency had passed, the majority of them were abandoned, such as the emblematic beggars' central register. Only the *contrôles des troupes* kept on working, because the military administration had sufficient manpower to man it, and it remained of crucial importance to the French state – the War Department was probably one of the largest state institutions. But the legacy of the Regency did not simply fade away. The knowledge developed during this decisive period remained a repertory of experiments that could later be used by administrators, when they deemed it useful.

This set of administrative tools and norms resurfaced from the 1750s onwards, as France was plagued (or so it seemed to social observers of the time) by hordes of vagrants and unemployed idle young men, living rough in the city streets or stealing from private houses; it was a phenomenon that greatly worried the good citizens of the nation. Identification became a hot ideological issue too, since the old elites were complaining about the disorder of social appearances and the blurring of visible, social boundaries, established by reputation, clothes and privilege. The police were themselves very sensitive on this issue, considering themselves accountable for the stability of social hierarchy in the name of the king. One of the most important commitments for the police was the tutelage of trades and their privileges – that is, the very definition of social identities and their preservation whenever they were contested.[13] The police took these issues very seriously, as is clear in Paris, where the *lieutenant général de police*, a powerful police magistrate appointed by the king, carefully hunted for impersonators and social impostors, *faux nobles* or *chevaliers d'industrie*, alleging false titles of nobility or qualifications to impress and abuse confident Parisians and steal their money.[14] The issue of identification was itself enmeshed with the debate on the liberalization of the economy, in the 1750s and 1760s, which reached its peak during the ministerial rule of Turgot in 1774–6, with the abolition of trades and the proclamation of freedom of work. Liberal writers and their followers in the royal administration (Turgot being both) were, consciously or not, jeopardizing the bases of social hierarchies and classifications that were built on privileges. Social identity was to be defined

by an activity, a social function, not by history. So fixing one's identity was a topical issue during these crucial decades.

In this context, the multiplication of the registers and passports for soldiers, travellers and workers, even for all the kingdom's inhabitants, appealed again to 'reformers' and administrators. Magistrates and senior police officers such as Guillauté, author of the famous *Project of Reformation for the Police of the Kingdom* (1749), were concerned by more mobile individuals and increasingly unstable identities. They also deplored the incapacity of the existing institutions to seize and fix personal identity. Guillauté, an officer of the royal constabulary in Paris, suggested the registration of every single individual within the city of Paris in police central records.[15] The central registers of the army, whose effectiveness they probably overestimated, no doubt fascinated Guillauté, and many other police officers. But this erroneous perception resulted in the production of numerous police projects. These efforts can also be viewed as a police response to the blows inflicted by economic liberalism against the society of stable orders and its classifications.[16] These projects of administration and government were aimed at 'incorporating' individuals in a society on the edge of disintegration and shattering. Guillauté has been considered as an isolated utopian thinker, but propositions of this kind actually flourished in the 1760s and the 1770s, as a survey in French local archives has proved.[17] In this regard, these police '*mémoires*' were not simple repressive proposals, concerned only with the strict maintenance of law and order. Some of them were genuine projects of government and attempts to reform the royal administration. Even in their less elaborated version, they advocated the same role for the police: that of ensuring the identification of all the citizens.

The identification measures implemented were generally based on three principles: the increased centralization of information, the generalization and the standardization of the written procedures and the promotion of specialized agents. The gap is generally obvious between the grand projects of the reformers and the actual actions of the administration. A notable example of this was the spectacular failure of the central register of beggars owing to the monarchy's limited resources in this field. Established in the *Hôpital Général* in 1724 the half-dozen clerks assigned the task of data collection were quickly overwhelmed by the undertaking, which required them to copy and classify thousands of descriptions of imprisoned beggars.[18] Local hospital administrators also gradually stopped sending the requested files. But this episode should not conceal the existence of many separate initiatives and efforts, which

led sometimes to brilliant successes such as the *contrôles des troupes* in the French armies in 1716.

This example reveals the differing capabilities of the various sectors of the royal administration in carrying out the programme of rational identification. The army was equipped with a more numerous and effective administration, thanks to the development of the offices of the War Secretary.[19] The strategic and financial importance of the army for the monarchy had made it a privileged testing ground for experiments in this field since the beginning of the eighteenth century. Many envious police officers and magistrates considered it to be a model for determining identification. The military administration could still not locate every deserter. But the existence of the registers in the office of Desertion and Control of the Troops at the War Department in Versailles, regularly updated, made it possible to identify almost every single suspect arrested in any place in the kingdom and even abroad given the multiplication of diplomatic agreements with contiguous states. These achievements should not obscure the continued existence of temporary practices, as at the time of the plague of Provence in 1720, or the repeated campaigns against beggars and vagrants, notably during the 1760s and 1770s.

However, significant developments took place in at least two other fields. The new emphasis on the control of mobility and the identification of foreigners in the cities generated a wave of police reforms throughout the kingdom during the eighteenth century. All police reforms experimented with the same features, more or less combined: a new focus on written procedures, the specialization of the police branches and sometimes an attempt to reshape urban administrative divisions and to set up tighter controls on urban space. Everywhere, older regulations already existed, making it mandatory for foreigners staying in town to declare their identity, most often at the gates or, in cities without walls such as Paris or Bordeaux, to their lodger. Throughout the century, written identification gained considerably in importance in the attempt to control travellers, alongside the development of registration techniques. The Paris police force was a pioneer in the field: by 1693 any individual staying in a hotel or a lodging house would have to fill in a register. By 1708 the system was becoming stricter, with the development of a double register, one to be handed to the district police commissioner every month, the other kept by the owner for inspection. Gradually the data was centralized in the offices of the *lieutenant général de police*, where a special section was created to deal with lodgers. Provincial cities also experienced similar centralization. Stricter

regulations were adopted to register travellers' identities. Whenever they passed through the gates, as in Lille, Besançon or Strasbourg, they had to fill out a printed *bulletin*, with their name and location in the city, which was collected every night for the central police or military authority. In many cities, especially those without walls, like Bordeaux, identification was delegated by the police to the lodgers themselves, who had to comply with a new set of administrative norms for registration, defined by the police, in a manner comparable to Paris.[20]

Special police departments, dedicated to the supervision of 'foreigners', were created in the kingdom's principal cities and in the capital.[21] From 1708, in Paris, the *commissaires de police* and the police inspectors implemented the supervision of foreigners. This system was later expanded upon by the lieutenants of police and, gradually, specialized police officers began to appear on the streets of the capital, charged with the surveillance of specific mobile groups such as soldiers, Jews and 'foreigners' from outside the kingdom, an apparatus that was fully operational in the 1750s.[22] The Paris police was a pioneer in this field, and oversaw the appointment of specialized agents: a *commis aux étrangers* in Bordeaux from 1724, a *contrôleur aux étrangers* in Lille in 1737, a specialized *commissaire de police* in Clermont-Ferrand in the 1760s.[23] In more numerous cities, local authorities simply revived older police institutions or reassigned existing structures to watch travellers, such as the *dizeniers* in Toulouse and Bordeaux, a large body of petty municipal officers traditionally in charge of neighbourhood policing.[24] Some cities like Bordeaux combined the different trends. To a certain extent, the policing of foreigners appeared as an experiment for a more general reform of the urban police forces in the eighteenth century. This was more a local movement than one initiated from above, brought about by various initiatives of local administrators (in Bordeaux and Clermont-Ferrand), garrison officers in the walled cities of the northern border region, or city magistrates, as in Toulouse and Besançon.

The creation of new agents was linked to the creation of new administrative districts, established for police needs and according to their specification, so that the police force could be adequately distributed throughout the city and assigned to the surveillance of a clearly delimited space, as in Besançon in 1760. The police emphasized the localization of foreigners in the city, first by making visible outsiders who were required to put a sign on their door on the street and to register with the police. The police of Paris, as Vincent Milliot has clearly demonstrated, accumulated an incredible and almost intimate knowledge of the geography of temporary lodging in the capital early in the eighteenth

century, but the system was fully operational and perfected under the Lieutenant Général Sartine (1759–72), making sure that any lodger was known to the police and fiercely chastising any unregistered activity.[25] Comparable efforts were visible in another large city of the kingdom, Bordeaux, where the first task of the newly appointed *Commis aux Étrangers*, Pudeffer, was to make a survey of all inns and lodgers in the town and its suburbs in 1727.[26] The more elaborate projects of identification in town linked the mapping of lodging with the institution of house numbers, as carried out by Guillauté in 1749 or in projects for Strasbourg in the 1780s.[27] So the emphasis on identification was central in the transformation of urban policing.

In the repression of vagrants and beggars from 1750 onwards in the city streets and on the roads, the police also put an emphasis on written certificates, to ease the categorization between the unemployed and the vagrant, that is, between the 'good poor' and the 'bad poor'. An investigation in the records of the Prévôté de l'Isle, the constabulary company in charge of the area surrounding Paris, shows a remarkable shift in the police procedures when arresting individuals for begging or vagrancy.[28] In the 1750s, the *cavaliers* imprisoned people because they were unable to prove their occupation or any work or because they looked suspicious. But in the 1760s and the 1770s, the lack of papers, which hitherto had not been a prominent cause of arrest, became more and more a justification for sending destitute and poor people found on the roads to prison. By 1784 the question *avons demandé s'il a des papiers* ('asked if he has papers') became a ritual in the arrest records, while the 'absence of papers' (*défaut de papiers*) testifying to the employment of the carrier justified arrest. By 1778, the new regulations for the royal constabulary allowed the *cavaliers* to arrest any individual without *papiers*, a technique that was sometimes used to get rid of undesirable people. Such was the case in 1784 in Montrouge, just outside Paris, where youngsters playing ball games with girls in the wheat fields were sent to the local jail for just this reason.[29]

The certification techniques also underwent substantial transformations. Initial progress was slow during the eighteenth century because of the jurisdictional and administrative fragmentation of the Ancien Régime in France: any holder of a fragment of public authority could issue passports, from rural parochial priests to the king himself. These documents were still easy to counterfeit, even if they were more and more often printed. There were few special documents subject to particular precautions, such as the soldiers' *cartouche de congé*. This consisted of a printed certificate of leave, with an officer's signature on it. The reform

of 1716 standardized the form and instituted a designed stamp for every regiment, held by the major. Although there was no radical transformation in the form of these documents during the eighteenth century, they gradually changed, as clerks, policemen and administrators tried to make them more reliable and less subject to forgery and fraud.

First of all, the contents of certificates and passports were slowly altered. By 1700, these documents – such as the rather elaborate royal passport for Jean-Baptiste Levin, a merchant of Lille – conveyed very little information about the identity of their bearer.[30] Apart from his surname, family name, place of origin and occupation, we do not know much about Jean-Baptiste Levin. On the other hand, the document displays a large amount of detail about the issuing authority, through its diplomatic formula, stamps, arms and seals. It describes with precision the places and the areas where Levin could travel to, excluding him from military cities. Those features derived from the primitive nature of the passport, inherited from the Middle Ages, which was part of privilege and not specifically concerned with identification.[31] The function of identification became more significant in the documents during the eighteenth century. The number of identification features and their physical importance grew. Many passports issued by local powers, be it cities or royal police courts, adopted a common structure, with a wide, blank space in the centre where the clerk could write down as much detail on the bearer as he wanted. More and more frequently these new categories of identification included a physical description, a feature that was totally absent before the first decades of the eighteenth century in civilian documents. The use of physical description, or *signal* or *signalement*, had been limited to criminal records, search warrants, slaves and soldiers. An initial breakthrough occurred with the policies of the Regency, with all the new documents including a *signalement*. Physical description became more and more frequent after 1750 and was a standard requirement in any passport in France by the 1780s. Giving details of age, colour of hair, size and sometimes more specific features, most notably focusing on the face, such as the form of the nose, the eyes, the mouth, this inclusion of physical description was intended to prevent somebody else using the document.

Another major transformation was the diversification of these documents. The development of identification based on membership of specific groups or forms of employment caused the types of documents to proliferate. Soldiers carried *cartouches de congé* or *feuilles de routes*, the latter when they were walking to join their new regiment. Many institutions, like hospitals or *bagnes* caring for the poor, the destitute or

criminals issued normalized *congés* when they released them. The police developed their own systems of identification for monitoring certain populations. Notoriously, workers belonging to the guilds were supposed to receive a *billet de congé* when they left a patron to find another job, an obligation reasserted by the royal *lettres patentes* of 1749.[32] The *billet de congé* was replaced by a more sophisticated document by the end of the 1770s, the *livret*, a small booklet containing personal identification and all the *billets de congé* that a worker would get from his successive jobs. This booklet was issued by the guilds and was to be retained by the master during the contract, for inspection by the police. It served as an ID for the worker or journeyman when he was between two jobs. This system was adopted by all the guilds in the kingdom in 1781.

However, the proliferation of documents probably made the task of control harder, especially in the absence of any general regulation on travel documents or identification in the kingdom. Some middle-rank police magistrates insistently recommended the adoption of *a loi générale sur les passeports*, like the *commandant* in Angoûmois in 1760, the military officer in charge of this small province.[33] This issue of generalizing or unifying travel documents in the kingdom perhaps appealed to many administrators and magistrates, especially those in the lower ranks, who were in charge of controlling people on the roads and the city, and dreamt they could know everybody. This seems to have been heatedly debated in 1774 by a special commission appointed by the reformist (and liberal) *Contrôleur Général des Finances*, Turgot, to reshuffle the policies of the state towards the poor.[34] The president of the commission, Archbishop Loménie de Brienne, advocated the institution of a general passport for the members of the lower classes, including their destination, but the idea was dismissed by another member of the clergy, Boisgélin de Cucé, in the name of freedom of movement. He predicted that this was only the beginning of a society that would assert absolute control over all individuals including the upper classes of society.[35] The generalization of uniform passports was temporarily abandoned for the remaining years of the monarchy, resurfacing in March 1792, this time for good. In the meantime, the police implemented partial measures for specific groups, diffusing the use of these documents through larger sections of society.

Conclusion

The above examples illustrate a series of shifts in identification procedures. The servants of the state, but also the different actors of the

'police', elaborated and introduced new norms, tools and instruments to identify individuals in France. Although some periods, such as the Regency, can be singled out as crucial in catalysing new experiments, changes were very progressive and gradual. This is not a story of the shift from oral to written document, but rather the coexistence of different ways of identification, both oral and written.

Notes

1. V. Groebner (2007, trans. 2004) *Who Are You? Identification, Deception, and Surveillance in Early Modern Europe*, trans. M. Kyburz and J. Peck (New York: Zone Books), p. 17.
2. N. Z. Davis (1983) *The Return of Martin Guerre* (Cambridge, MA: Harvard University Press).
3. See G. Noiriel (ed.) (2007) *L'identification. Genèse d'un travail d'État* (Paris: Belin); I. About and V. Denis (2010) *Histoire de l'identification des personnes* (Paris: La Découverte).
4. See É. Brian (1994) *La Mesure de l'État* (Paris: Albin Michel); D. Roche (1993) *La France des Lumières* (Paris: Fayard).
5. For a political analysis of the Regency, see E. Le Roy Ladurie (1998) *Saint-Simon ou le système de cour* (Paris: Fayard); the policies are described in separate studies: C. Paultre (1906) *De la répression de la mendicité et du vagabondage en France sous l'Ancien Régime*, Thèse de droit (Paris: L. Larose et L. Tenin); J.-P. Gutton (1973) *L'État et la mendicité dans la première moitié du XVIII^e siècle* (Lyon: Institut d'Études Foreziennes); R. M. Schwartz (1988) *Policing the Poor in Eighteenth-Century France* (Durham, NC: University of North Carolina Press); A. Corvisier (1968) *Les Contrôles des troupes de l'Ancien Régime* (Vincennes: Service Historique de l'Armée de Terre); C. Carrière, M. Courdurié and F. Rebuffat (1968) *Marseille ville morte: la peste de 1720* (Marseille: M. Garçon).
6. V. Denis (2006) 'The Invention of Mobility and History of the State', *French Historical Studies*, 29:3, pp. 359–77.
7. Archives Nationales, AD VI 19, and Corvisier (1968) *Les Contrôles des troupes de l'Ancien Régime*.
8. Paultre (1906) *De la répression de la mendicité et du vagabondage*; Gutton (1973) *L'État et la mendicité dans la première moitié du XVIII^e siècle*; Schwartz (1988) *Policing the Poor in Eighteenth-Century France*.
9. Bibliothèque Nationale de France (BNF), coll. Joly de Fleury, Mss 36, fol. 24–41. On this project see: BNF, coll. Joly de Fleury, Mss 36 and 1308; Gutton (1973) *L'État et la mendicité dans la première moitié du XVIII^e siècle*; Schwartz (1988) *Policing the Poor in Eighteenth-Century France*.
10. J.-N. Biraben (1976) *Les hommes et la peste en France et dans les pays méditerranéens*, 2, *Les hommes face à la peste* (Paris: Mouton), 55ff.
11. A special section, the Health Council, was created within the Royal Council, which edicted several *arrêts du Conseil*, for instance *Arrêt du Conseil d'État au sujet de la maladie contagieuse de la ville de Marseille*, 14 September 1720, Archives Municipales de Bordeaux, GG 1211b. See also M. Antoine

(1970) *Le Conseil du Roi sous le règne de Louis XV* (Genève: Droz), p. 107. Many documents were republished by J. B. Sénac, Louis XV's physician: J.-B. Sénac (1744) *Traité des causes, des accidents et de la cure de la peste* (Paris: P.-J. Mariette).

12. For a detailed relation: Biraben (1976) *Les hommes et la peste en France*, pp. 245–6.
13. S. L. Kaplan (2001) *La fin des corporations* (Paris: Fayard).
14. See V. Denis (2006) 'Imposteurs et policiers dans la France des Lumières', *Politix*, 2:74, pp. 11–30; L. Fontaine (2010) 'La délinquance financière dans l'économie du privilège: société de cour, changements d'identité et "affaires" à Paris au début du XVIII^{e} siècle' in L. Andries (ed.) *Cartouche, Mandrin et autres brigands du XVIII^{e} siècle* (Paris: Desjonquères).
15. J. Seznec (ed.) (1974) *Mémoire sur la réformation de la police de France par M. Guillauté* (Paris: Hermann); D. Roche (1981) *Le Peuple de Paris* (Paris: Aubier).
16. On the 'liberal phase', see Kaplan (2001) *La fin des corporations*.
17. See V. Milliot (ed.) (2006) *Les Mémoires policiers, 1750–1850: écritures et pratiques policières du Siècle des Lumières au Second Empire* (Rennes: Presses Universitaires de Rennes), introduction, and especially P. Brouillet, 'La maréchaussée idéale: Les Essais historiques et critiques sur la maréchaussée de France de Cordier de Perney, 1778', and V. Denis, 'Comment réformer un monument de la police? La réforme de la police de Strasbourg à la fin de l'Ancien Régime' and 'La réforme de la police à Bordeaux: les mémoires de Pudeffer'.
18. See Gutton (1973) *L'État et la mendicité dans la première moitié du XVIII^{e} siècle*.
19. For a detailed analysis: V. Denis (2008) *Une histoire de l'identité, France, 1715–1815* (Seyssel: Champ Vallon).
20. See Vincent Milliot (2000) 'La surveillance des migrants et des lieux d'accueil à Paris du XVIe siècle aux années 1830' in D. Roche (ed.) *La ville promise. Mobilités et accueil à Paris fin XVII^{e}–début XIX^{e} siècle* (Paris: Fayard), pp. 21–76.
21. See C. Denys (2002) *Police et sécurité au 18^{e} siècle dans les villes de la frontière franco-belge* (Paris: L'Harmattan); J.-L. Laffont (2001) 'La surveillance des étrangers à Toulouse au XVIII^{e} siècle' in M.-C. Blanc-Chaléard, C. Douki, N. Dyonnet and V. Milliot (eds) (2001) *Police et migrants en France, 1667–1939* (Rennes: Presses Universitaires de Rennes), pp. 289–314; Milliot (2000) 'La surveillance des migrants'.
22. See D. Roche (2003) *Humeurs vagabondes: de la circulation des hommes et de l'utilité des voyages* (Paris: Fayard).
23. See Denis (2008) *Une histoire de l'identité*, pp. 130–45.
24. See V. Milliot (2006) 'Réformer les polices urbaines dans la France des Lumières: le révélateur de la mobilité', *Crime, Histoire et Société/Crime, History and Society*, 10:1, 25–50.
25. Milliot (2000) 'La surveillance des migrants'.
26. Letter to the intendant Boucher, 25 janvier 1727, Archives Départementales de la Gironde, C 1075.
27. AA 2093, Archives de la Communauté Urbaine de Strasbourg.
28. Survey in the records for 1754, 1765, 1774, 1784: Archives Nationales, Y 18635–18636, 18658–18659, 16679–18680, 18723–18732. For a detailed analysis, see Denis (2008) *Une histoire de l'identité*, pp. 232–7.

29. Bourg La Reine, capture d'Antoine Gayot, 'Arresté comme suspect sans passeport ni certificate', 5 June 1784, Archives Nationales, Y 18726 A.
30. *Passeport* for 'le sieur Jean-Baptiste Levin marchand demeurant à L'Ille', 1711, Service Historique de la Défense (Vincennes), A1, 2308, fol. 159.
31. See Groebner (2007, trans. 2004) *Who Are You?*; J. Torpey (2000) *The Invention of the Passport. Surveillance, Citizenship, and the State* (Cambridge: Cambridge University Press).
32. See S. L. Kaplan (1979) 'Réflexions sur la police du monde du travail, 1700–1815', *Revue historique*, 261, pp. 17–77.
33. 27 August 1760, letter to the Marshall of Belle-Isle, A1 3631, fol. 52, Service Historique de la Défense (Vincennes).
34. *Mémoire sur la mendicité* by Loménie de Brienne, BNF, fonds français 8129, fol. 244ff.
35. BNF, fonds français 8129, fol. 293ff.

2

Registration as Privilege: The Moscow Residence Permit as a Mark of Privilege in the Russian Empire, 1881–1905

Gayle Lonergan

Introduction

The internal passport and residential registration system of the Soviet Union and the Russian Federation (*propiska*) is usually seen as an innovative feature of a totalitarian Stalinist government, designed to facilitate the surveillance and control of population movement. Even historians of Russia will point to the 1932 introduction of the internal passport and the establishment of closed cities (*rezhimnie goroda*) as an integral part of the totalitarian communist state.[1] However, the system of internal passports and permits for residence in cities under Stalin was a reintroduction and adaptation of a practice that had long been a preoccupation of the Tsarist state: the granting of the privilege of residence in the major cities of the empire. Under the Tsars this system of limitations upon mobility and residence had been linked to the institutions of serfdom, the needs of taxation and conscription, and the granting of privilege by the autocrat. Privilege was a basic feature of the political and social structure of the autocratic state and was seen as a gift of the tsar to ensure that each group could carry out its service to the autocrat.[2] The residence permit was a significant privilege of the Tsarist state, which was simply reintroduced into the Stalinist state and adapted to accommodate current conditions.

This chapter will look at the period 1881 to 1905 when this system was placed under strain as Russia underwent dramatic political, social and economic changes. These were the years during which the legal proscriptions upon residence in Moscow were subject to constant revision, amendment and clarification as the tsarist bureaucracy attempted to keep track of the changes in the post-emancipation population.

An increasingly dynamic population no longer fitted into the long-established taxonomic systems devised by the Petrine state. The most difficult individuals to track and to fit into the autocratic structure were those whose background or training was not compatible with the *soslovie* system or those who had previously been excluded from the ranks of the privileged, but were now deemed necessary to the state as urban workers or to fulfil the demand for educated people in a city where *soslovie* counted for less than skills and professional training. Of these the most notable were peasants, women and Jews, and it is these groups that the chapter examines.

These years witnessed a series of ministerial commissions, established to clarify the existing laws relating to registration and passport regulations, and to explain changes in tsarist legislation. The resolutions of some of these commissions illuminate the attempts of the bureaucracy to render society 'legible' within the terms of the original service state paradigm, which differentiated according to privilege.[3] In addition this work uses cases of direct petitions to the Tsar or to the Moscow Governor General (the Tsar's direct representative in the city), for the granting of residence privileges. These petitions make clear the nature of the relationship between tsar and subject at this time. Despite the decrees and amendments, there was little point in appealing to the courts over where to live. It was at the disposition of the tsar or the interpretation of the bureaucracy.

The history of residence registration

As serfdom had tied so much of the population to the land, one of the most significant privileges that could be extended by the state to its subjects was the freedom to move and to choose a place of residence, with residence in the two capitals of St Petersburg and Moscow the most difficult to gain. In 1714 all homeowners in cities were required to inform the neighbourhood guard (*nadziratel*), a tsarist local employee, of anybody entering or leaving the city. In a 1719 statute all subjects were forbidden to move from one place to another without a passport or form of permission.[4] These regulations then went on to form the basis of the internal passport and residential registration systems in Russia.

Prior to 1861 and the emancipation of the serfs, those who were exempt from taxation and conscription, that is, the hereditary nobility and service state officeholders, were granted permission to reside permanently in the cities of the empire, while their house serfs and servants were granted temporary permits, which were attached to the property rather than the

person. The townspeople (*meshchane*) and merchant estate (*kupechestvo*) provided the services that kept the city and the economy running, and in return received the privilege of residence through their estate institutions or guilds. Needless to say serfs were those without any privilege of movement or choice of residence. In theory, upon the emancipation of the serfs in 1861, this privilege should have been abandoned. In practice it continued to be the hallmark of some of the most advantaged of the Tsar's subjects.[5] It would also be the most enduring of the privileges granted by the Tsar, as residence in the major cities remained limited and protected until 1917, whereas exemption from conscription and taxation had been removed by the late nineteenth century.

The conditions of residency in Russia

The observation and supervision of a wide range of activity had long been a feature of urban life in Russia. The urban police service in Moscow at this time was a stationary force that stood on street corners observing.[6] All homes and blocks were required by law to have courtyard cleaners and night guards. These were also police auxiliaries, who were used as the eyes and ears of the neighbourhood. They were required to inform their local police station of any new arrivals or departures.[7] In addition, the onus of registration was not put simply upon the shoulders of the individual entering the city. It was also the responsibility of the homeowner, hotelkeeper, the landlord of furnished rooms or administrator of night shelters. These were legally bound to register the arrival of a guest or visitor at the local police station. For private homes and rented rooms this was to be done within three days (72 hours). For hotels and lodgings the time in which all papers had to be presented to the police for registration was only 24 hours.[8] Non-compliance was a criminal offence, not only for the person with a residence permit (*vid na zhitel'stvo*), but also for the person accommodating them. For those providing them with accommodation the punishment was either a fine of 500 roubles or three months' imprisonment.[9] This practice of making the inhabitants of Moscow responsible for the registration of incomers mirrors the use of courtyard cleaners and guards as auxiliary police; the population was required to provide its own surveillance and volunteer many of the functions that were already being taken over by the state in other parts of Europe. As Richard Pipes remarked of the Tsarist Empire, it was the most 'undergoverned' of all the empires, in terms of the number of administrators to inhabitants, yet it was the one with the most ambitious schemes to control the lives of its subjects.[10] As a consequence it

relied upon the inhabitants of the city to protect the privilege of residence, even against those wishing to gain only temporary residence.

The peasantry

Among the non-privileged groups in society the most obvious was the peasantry, making up approximately 85% of the population.[11] From 1861 the numbers of those allowed to reside in the city expanded rapidly, in keeping with the demand for workers to fulfil the needs of industrialization.[12] It seemed then that the privilege of residence had been eroded as Russia tried to modernize and compete with the Western empires and as a more recognizable city was forming; a city that was growing beyond the control of the Tsarist authorities. The official censuses of Moscow in 1882 and 1902, which were carried out to gauge the level of migration into the city, show the dramatic rate of population increase as the result of an influx of migrants from the villages.[13]

However, these mass migration figures obscure the reality of mobility and residence in Russia for the peasantry. This is where the difference between a passport and a long-term residence permit becomes evident, demonstrating 'who was in and who was out'. While the passport regulations were eased, the residence requirements were hardly touched. Instead, with the new passport regulations we can really only see greater numbers taking advantage of the previous arrangement, in which necessary workers were granted temporary residence to perform necessary functions. After 1894 all could obtain a passport (except under-age and married women and children), and the average term was for one year.[14] However, residency was not as easy to obtain. Residence permits would only be granted to the newcomers on a temporary basis. On further examination the turnover in residence and length of stay in the city reveals more than the simple migration figures. According to the census of 1882, the official level of in-migration of peasants was extremely high. As an example the number of male peasants who claimed Moscow as their birthplace was just over 56,000. Yet the number of male peasants who had been resident in the city for less than a year was almost the same – over 55,000.[15] One author, looking at the rate of population growth, estimated that between the two censuses of 1892 and 1902 the number of peasant migrants to the city was in the range of 4 million.[16] Another researcher has placed the growth rate of Moscow in 1900–14 at 4% per annum, on a par with New York.[17]

These figures all seem impressive but, unlike the migrants to New York, the majority of peasants moving into Moscow were not planning on

starting a new life or looking to benefit from urban opportunities. Those opportunities were quite clearly the preserve of the long-term inhabitants and the proud owners of a permanent *vid na zhitel'stvo*. For those peasants who came to Moscow the reality was a short-term registration, often organized by a factory (which could quickly lay people off if necessary), or which was limited by the short-term passport provided by the elders of the home village. This latter point is a well-known feature of the emancipation. Peasants might no longer be tied to the landowner, but they were still tied to the land. The tsarist autocracy had looked at the unpleasant side effects of industrialization in Western Europe and had no place for a proletariat, workhouses and social unrest in the cities. Hence the distribution of passports had been handed to the elders of the peasant commune after the landowner was removed from the equation. As taxation was imposed communally it was not in their interest to allow the young men of the village to leave for good.[18] Conservative and hierarchical forces of both state and society continued to limit the ability of the population to move to the cities. The majority of workers in late nineteenth-century Moscow were still registered in their home villages and expected to return there.[19] The benefits of poor relief, education and improved health care were not for the short-term village migrants on a temporary pass.

Women

As the privileges and exemptions that were granted had traditionally related to service to the state, women were automatically excluded from this system; soldiers fought for the state, merchants traded for it, the clergy prayed for it, and the *dvoriane* supported it and administered it, while the peasant males provided conscripts for the army and paid taxes. They were all male roles in a patriarchal state. No one had envisaged that women would ever produce a service that the state required; therefore they had no place in the classification system. Including them was a breakthrough both in legal and societal terms, although the bureaucracy would not relinquish its reliance upon the traditional classifications of the patrimonial state and only granted women the freedom to move to the city if they could provide a useful service. One historian of the legal profession in Russia described the championing of women's rights in the late nineteenth century as a Trojan mare, which was used to introduce the concept of civil equality for individuals and the ultimate replacement of patrimonial authority and legal estates.[20] Grafting women on to the traditional patriarchal structure and granting them the freedom

of a *vid na zhitel'stvo* separate from that of a male guardian considerably undermined the very basis of the patrimonial estate system.

Women's main access to status was via their association with men. They were placed on the passports of their father, male guardian, husband, brother or closest male relative.[21] From the age of 21 unmarried women were eligible for their own passport. However, gaining a long-term *vid na zhitel'stvo* for Moscow was another matter entirely for any female wishing to reside in the city. As the *vid na zhitel'stvo* was usually given in relation to the service offered or the needs of the city, the more privileged the *soslovie* a woman was from the less likely she was to have anything to offer. In the case of women, then, it is the irony that the lower their status in society the easier it was for them to gain the privilege of mobility and residence in the cities, although perhaps calling it a privilege might be overstating the case when usually the permit would be granted for a short time to enable menial employment. This example indicates the difficulty of associating these grants of privilege with status in any straightforward way. Privilege was mainly granted on the basis of usefulness or need on the part of the autocracy. It was not an inalienable expectation related to status within society. There were of course a few extremely wealthy women of longstanding elite families who could travel anywhere or live anywhere. However, for the majority of the *dvoriane* and townswomen living outside Moscow, their registration would be in the town of their birth and would be listed on the documents of their father, husband, guardian or close male relative. The law concerning residence was not constructed in such a way that women could simply escape from male patronage and protection. Even if a woman gained a separate passport and *vid na zhitel'stvo* after reaching 21, upon marriage this would have to be surrendered and kept in the church with the records of marriage.[22]

After 1894 women gained the right to petition for a separate *vid na zhitel'stvo* from their male guardian – usually a husband or father.[23] However, as with all legislation, it was only effective if the bureaucracy chose to apply it. Despite the legislation, the process of gaining a separate residence permit was unlikely to go through the courts, and the administrative organs were not keen to follow this amendment to the law on *vid na zhitel'stvo*. Many of the stories of the women who presented a petition for separate residence describe domestic abuse, violence or desertion. However, the attitude of the state was quite simple. A woman's place was in the house of her husband. If he beat her he would be chastised by the authorities (usually the local police) and instructed to take better care of his wife; if he deserted her she was

expected to investigate his whereabouts and reassume her place in his residence. Permanent alienation from him could mean the city would have to step in and provide for her welfare or leave her to add to the numbers of casual prostitutes and beggars.

Widows, as is often the case, had the greatest freedom, yet were also exposed to the greatest exploitation and misery.[24] The city census of 1882 gives a breakdown of the age and status of female migrants who were in the city on that day. What is striking is the number of widow migrants living in the city as a percentage of the female migrant population. They made up almost 25% of the registered female incomers to the city.[25] This would suggest that the village was more prepared to give widows travel documents and permission to leave. Comparing this outcome with the same figures for male migrants born outside of Moscow shows a significantly lower percentage of widowers – approximately 3%.[26] There were more men overall, but the contrast is striking and fits in with the known attitude towards women at the village level – the older a woman was, the less use she became. She was past reproductive age and was less capable of work considered valuable to the commune.[27] A widower, however, would still be of use both for physical labour and in the administration of village affairs, capable of becoming one of the *bolshaki* (village leaders or literally 'big men').

Here we have an example of how the idea of use or service in Tsarist society began to translate in a modernizing society. In the changing economic environment this uselessness in the village translated into service in the city, as these women were ideal to fill the menial roles that urban environments required – service for an urban resident or labour in the textile factories. While this service element allowed them greater freedom of movement than their counterparts in the superior or more privileged *soslovia*, it also left them in an extremely unstable position as, in common with all those of the peasant *soslovie*, they were unlikely to be granted a long-term residence permit and were more likely to reside in the lodging houses of the infamous slum area of Khitrov Square, where the regulations regarding registration were rarely observed and the numbers of inhabitants were estimated at two to three times the norm laid down by the police or sanitary commissions.[28]

The modernization and liberalization of society in the post-emancipation period also witnessed the emergence of another group of women; a group that it was difficult to categorize according to the service state classification system. These were the growing number of women who were going into professional positions, for example, female teachers, doctors, pharmacists and university lecturers. These women were a

particular source of confusion for the city police who were expected to register them. A special temporary commission was established by the Minister of Finance working with the Ministry of Internal Affairs, which worked from 1895 to 1896 to clarify the laws relating to registration in the major cities. Its role was to clarify the amendments to the law that were being introduced to reflect the changes in society. As the occupations of these women belonged to the growing number of professional positions that were outside the state service system, it was unclear who should register them and how. So not only were they women, but they were women in positions that did not conform to the classifications of the *soslovie* system. As a consequence a decision had to be made as to where and by whom they would be registered. Unlike their peasant equivalents, they were usually coming to the city for a longer period of time and probably to settle. But if they were married or under 21, how could they be registered? Should they be registered according to any kind of *soslovie* attachment they might have through a father or a husband? And what of those growing number of women who had no links to a privileged *soslovie* classification?

The decision was for female doctors in the major cities to be granted their residence permit in the local police station, while married or under-age female teachers or matrons in schools would receive a long-term permit from the institution, as long as they had the permission of their husband or parents.[29] While these women were treated as separate subjects for the purposes of registration, the overall understanding was that they were in the city only with the permission of their husband, father or male guardian. They were not then the responsibility of the city authorities, as residency was dependent upon employment, and the termination of employment would bring an automatic end to the separate *vid na zhitel'stvo*, with the registration returning to the permit of the husband or guardian. The bureaucracy thus avoided undermining the fundamental patriarchal structure of the law while ensuring the city could fill the growing number of positions opening up in new professions such as pharmacy or private education.

Jews

The least privileged group of all were the Jews of the Empire. For this group, entry into Moscow and registration was not simply difficult or expensive. Instead, it was forbidden by law, with the exception of those with a professional skill or qualification deemed useful. In 1791, soon after the takeover of parts of the Polish Empire in the 1780s, where the

majority of Jews were settled, a law forbade the registration of Jews in the merchant or townspeople *soslovie* in the central provinces of the Empire. It also restricted them to temporary passes when visiting such cities as Moscow. By the end of the eighteenth century all Jews were confined to residence in the infamous Pale of Settlement in the Western Provinces of the Empire and the Kingdom of Poland. This demonstrates how the *vid na zhitel'stvo* for a city such as Moscow was a far more important privilege than the internal passport. Jews could obtain internal passports and permanent residence in the Pale of Settlement, but could never secure anything but temporary leave to stay in Moscow or any of the other major cities of the Empire. As a consequence the limited access to markets, business and trade hampered their social mobility as well as their physical mobility. This was a privilege accessible only to those Orthodox Slavs in the higher echelons of the service state.

As the Empire looked to modernize from the 1850s onwards and recognized the need for educated, skilled labour, this restriction was lifted for certain social and professional groups of Jews. Between 1850 and 1870 new amendments were added to the law on the *vid na zhitel'stvo*.[30] Those of the First Guild were allowed to reside in the city, keep a small number of Jewish servants and buy and sell property. However, they did not gain the right to permanent residency until they had been a member of the First Guild of the city for over ten years.[31] In a surprisingly benevolent addition to the law, even if they died before the ten-year period had elapsed, wives and children had the right to remain in the city and gain a permanent residence permit by continuing to pay dues until the ten-year period was up.[32] No doubt prejudice existed on an everyday basis, but a gradual easing of legal discrimination for selected Jews became apparent. By 1891 there were 35,000 Jews registered in the city, and no doubt a significant number living there illegally.[33]

However, one event in Moscow fully demonstrated the arbitrary nature of privilege, which remained dependent upon the Tsar. From 1891 to 1893, in an unprecedented move, the new Governor General of Moscow, Grand Duke Sergei Alexandrovich, expelled the mass of the Jews in the city with the exception of those attached to city institutions such as the First Guild of Merchants. In theory the police and Cossack raids were visited upon those without a residence permit, although, according to one observer, the founder of the radical constitutional movement the Liberation Front, I. I. Petrunkevich, this was merely a pretext for the expulsion of the bulk of the Jewish population regardless of their residential status. Whether or not their residence permits were in order, they were rounded up with their families and expelled to

the Pale of Settlement.[34] This openly anti-semitic action damaged the economy of the city in no small measure. In two years approximately 38,000 Jews were expelled from the city, an estimated two-thirds of the Jewish population.[35]

The limited access to residence in Moscow had been almost completely withdrawn, and only after a further easing of restrictions upon movement after the failed revolution of 1905 did the Jewish community start to re-establish a place in Moscow. Mass migration of Jews to the city was only seen with the collapse of the Tsarist autocracy in 1917. However, for many Russian Jews at the end of the nineteenth century there was a much greater privilege to be obtained: a passport granting the individual the right to leave the Empire. After the expulsion of the Jews from Moscow, between 1891 and 1910 over 1 million Jews left the Russian Empire to settle in America. Even after the pogroms of 1881, the decade of 1881 to 1891 had only seen the emigration of 135,000 Jews.[36] It was clear that the state-sponsored restrictions upon residence demonstrated to many in the Jewish community the impossibility of thriving in the Russian Empire. Ironically, by allowing them to leave, the Tsarist autocracy was granting them an even greater privilege than residence in Moscow. The foreign passport and leave to exit the Empire was granted to very few Russian subjects. However, it was only a one-way pass.

Even with the newly enshrined freedom of movement granted to the Jews in the October Manifesto of 1905, the seeming legislative benevolence could still be undermined by the arbitrary decisions of the Governor General's office, as the city was governed under special emergency measures. As in the case of Isaac Leibov Rivlin, a Nizhegorod merchant of the First Guild and his wife Sora Movshevna moved to Moscow in July 1907, after the repression of Jews in Moscow had abated. He gained long-term residence in the city after verification of his guild membership in Nizhegorod. All proceeded according to the regulations and his wife was granted leave to stay with him on his permit. However, later in the year he petitioned for a separate permit for his wife on the basis of his frequent trading trips. His request was turned down and he was instructed that his wife would have to petition for temporary residence to cover his absences from the city and pay the fees for each petition. Thereafter the file contains regular petitions from Sora to cover her husband's absences on trading trips to Siberia and Orenburg.[37] All these statutes and regulations relied upon the local administrators, who carried out the process of registration; in Moscow this meant the police and the Governor of Moscow's offices. While in most instances it was a simple process of checking the validity of the application and character

of the applicant with his home authorities, followed by registration, the city authorities could intervene in the process to hamper or create difficulties. There is of course no outright proof of low-level prejudice, but the above example would not have occurred in the case of an Orthodox merchant of the First Guild registered in Moscow.

Jews who practised as doctors and surgeons could gain a permit to enter the city for a limited period of time, while those who had higher education in any subject could reside in the city and gain employment in trade or industry. Dentists, pharmacists' assistants and doctors' assistants were thus granted temporary access to the city on the basis of their much-needed technical skills. Jewish students who wished to study pharmacy or medicine were also given the privilege of residency for the duration of their course.[38] Again we can see that those who could gain a *vid na zhitel'stvo* for Moscow were those with specific required professions with low status, such as pharmacists or teachers. This once again evoked the idea of necessary or useful service as a means of gaining privilege, although now those who were applying for it clearly expected to gain it as these exceptions were becoming more and more the norm in the city. Even within this clearly discriminated group, service or usefulness could bestow a certain amount of privilege, although, as the events of 1892 proved, their stay in the city was once again dependent upon the whim of the Tsar or his servitors in Moscow.

Conclusion

The Moscow residence permit, extant to the present day, originated as part of a grand scheme by Peter the Great to organize a society in which all subjects quite literally knew their place. They were tied both geographically and by juridical directives. In the second half of the nineteenth century Tsarist society began to change with the impact of rapid state-sponsored industrialization, which brought social groups, previously overlooked or deliberately discriminated against, into the purview of the tsarist authorities. Industrialization, urbanization and their by-products required very different servitors from those of the traditional society, and even such despised groups as women and Jews were now on the move and necessary for the smooth running of the tsarist city. The response of the bureaucracy to these new flows of immigrants into the capital was to shoe-horn them into the old classification system. Their response was not taxonomical innovation, but rather the pragmatic introduction of a series of adaptations and amendments to existing structures, granting the temporary privilege of residence to

subjects who confounded or lived outside the traditional classifications of the service state. The autocratic system was finding it increasingly difficult to classify its urban-based subjects, who were beginning to behave unnervingly like citizens. The increasing number of petitions for the privilege of residence in Moscow from previously unprivileged social groups such as women and Jews demonstrates the growing expectations of such groups that they too should be included in the increasingly complex society of the Tsarist city. The erosion of this last bastion of privilege in itself tells us that the seemingly rigid structure of the *soslovie* society was already finished. The autocracy responded with adjustments, modifications and revisions but, by the beginning of the twentieth century, the increasing demands for participation from these aspiring subject/citizens were indicative of the coming turmoil of 1905 and 1917 in the urban centres of the Empire.

Acknowledgements

The research for this work was made possible by a British Academy Small Research Grant (2008–9), which allowed me to work in the Central Historical Archive of Moscow from September to November 2009.

Notes

1. The term 'closed city' describes the need for a permit to enter and reside in major cities, such as the capital Moscow or in other cities designated by the state, as with sensitive military or industrial complexes, as closed cities.
2. S. Becker (1985) *Nobility and Privilege in Late Imperial Russia* (DeKalb, IL: Northern Illinois University Press), p. 19.
3. 'Legible' here is used as in the interpretation of James C. Scott, in which he describes the state's attempts to classify and arrange the population, so simplifying the state functions of taxation etc. See J. C. Scott (1998) *Seeing Like a State* (New Haven and London: Yale University Press), p. 2.
4. V. G. Chernukha (2003) 'Problemy izucheniia imperii i imperskaia funktsiia pasporta', *Istoricheskie zapiski*, 6:124, p. 140.
5. M. Matthews (1993) *The Passport Society: Controlling Movement in Russia and the USSR* (Boulder: Westview), pp. 1–8; V. A. Veremenko (2004) 'Litso s vidom na zhitel'stvo; Gendernyi aspect pasportnoi sistemy Rossii kontsa XIX-nachala XX', in *Adam i Eva, Almanakh gendernyi istorii*, 7, pp. 202–3.
6. R. W. Thurston (1987) *Liberal City, Conservative State* (Oxford: Oxford University Press), p. 88.
7. *Svod zakonov Rossiiskoi imperii: polnii tekst vsiekh 16 tomov, soglasovannii s posliednimi prodolzheniiami, postanovlenniiami, izdannymi v poriadkie st. 87 Zak. Osn.i pozdnieishimi uzakoneniiami: v piati knigakh*, SZ (1912; 1914), Tom. XIV (St Petersburg: Russkoe knizhnoe tovarishchestvo 'Dieiatel'), pp. 4–5.
8. *Ibid.*, pp. 1–4.

9. *Ibid.*, p. 3.
10. R. Pipes (1974) *Russia under the Old Regime* (London: Weidenfeld & Nicolson), pp. 281–2.
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13. Hamm (1986) 'Moscow', p. 13.
14. Veremenko (2004) 'Litso s vidom', pp. 203–4.
15. *Perepis' Moskvy 1882 ogo g.* (1885) vyp.2 (Moscow: Tverskaia), p. 113.
16. Hamm (1986) 'Moscow', p. 13.
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21. SZ, Tom XIV, Punkt. 10.
22. Veremenko (2004), 'Litso s vidom', p. 209.
23. Matthews (1993) *The Passport Society*, p. 12.
24. B. A. Engel (1994) *Between the Fields and the City: Women, Work, and Family in Russia, 1861–1914* (Cambridge: Cambridge University Press), p. 85.
25. *Perepis' Moskvy 1882 ogo g.* (1885) vyp.2 (Moscow: Tverskaia), p. 113.
26. *Ibid.*, p. 113.
27. Engel (1994) *Between the Fields and the City*, p. 239.
28. J. Bradley (1985) *Muzhik and Muscovite: Urbanization in Late Imperial Russia* (Berkeley: University of California Press), p. 274.
29. *Zhurnal zasedanii osoboi vremennoi kommissii, obrazovannoi pri ministerstvo finansov po raz'iasneniiu niedorazumeni, voznikaiushchikh pri primeneni vyc. utv. 3ogo iunia 1894g.polozheniia o vidakh na zhitel'stvo na praktike* (1897) 2oi zhurnal (St Petersburg), pp. 24–6.
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31. *Sbornik deistvuiushchikh uzakonenii o prave evreev na zhitel'stvo i proizvodstvo torgovli v Rossiiskoi imperii* (1897) (St Petersburg: Sost. N.I Afera), pp. 7–11.
32. *Ibid.*, p. 10.
33. Kupovetskii (1987) 'Evreiskoe naselenie Moskvy (XV–XX vv.)', p. 64.
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35. Cited in P. M. Polian (2004) *Against Their Will: The History and Geography of Forced Migrations in the USSR* (Budapest: Central European University Press), p. 20.
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37. Central State Historical Archive of Moscow (TsGIAM), Fond 46, Chancellery of the Moscow Gradonachalnik, Opis 14, Delo 804, pp. 1–18.
38. *Sbornik* (1897), pp. 11–12.

3

Dissemination of the Argentine Dactyloscopy System in the Early Twentieth Century: Local, Regional and International Dimensions

Mercedes García Ferrari

Introduction

'With the Chinese government's adoption of his dactyloscopy system, Mr Juan Vucetich has achieved yet another victory. Yesterday our Interior Minister received a telegram from Peking informing him that China had officially inaugurated its fingerprinting service with the assistance of the Chinese Minister of Justice.'[1] This news reached Argentina in April 1913 from one of the farthest corners of the earth, both geographically and culturally speaking. Few were the ties that linked the two republics, and this telegram confirmed the global dissemination of the fingerprint classification system developed in a small office of the Buenos Aires Province Police.

In late 1912, the creator of what became known as the *Argentine-dactyloscopy system* [*Sistema dactiloscópico argentino*] retired from the police after 24 years of service and embarked on a promotional tour that took him through several European countries, China, India, Japan, Indochina, the United States of America, Cuba, and neighbouring Uruguay and Brazil. This trip was the culmination of many years of dissemination efforts, which had put Vucetich in contact with a wide range of jurists, scientists and police authorities from the five continents, and had promoted the implementation of his system in many of the young republics of Latin America and in some European cities.

Various researchers have underlined the importance of the transnational dimension of the history of identification.[2] It is evident today that the rapid global dissemination achieved by various identification technologies is not a recent development of the late twentieth century. The early twelfth century, for example, saw the expansion of the use of

seals,[3] and in the late nineteenth century photography, anthropometry and fingerprinting were increasingly adopted by police departments around the world for legal identification purposes. In the case of fingerprinting, two systems of classification were widely disseminated: the system invented by Edward Henry of the Bengali Police in India, used throughout the British Empire; and the one created by Juan Vucetich, adopted in particular by countries across Latin America. Both were cases of innovations that emerged in peripheral places, far removed from their contemporary centres of scientific production, although with close ties to them.

While the dissemination of the Henry system has been studied extensively, that of Vucetich's system has received less attention from historians.[4] Julia Rodriguez's studies suggest that its emergence must be interpreted as part of a complex process of Atlantic exchanges.[5] This transnational dimension is not only key to an analysis of the circulation of theories and techniques between Europe and the Americas, but also to an understanding of knowledge exchanges within the Americas. In Latin America, identification practices were harmonized more quickly across borders than within national states, with cities from different countries adopting the same practices before spreading them within borders. This process was particularly intense along the coast of the South Atlantic, as the space mapped by maritime routes connecting the region with Europe was rapidly viewed by police authorities as an area for joint intervention beyond national borders.[6]

Vucetich played a key role in this unique development of identification practices in Latin America. He did not merely invent a fingerprint classification system. He was also the leading architect of a vast network of Latin American police officers, jurists and scientists, and an essential node of communication with Europe. This chapter examines the specific contexts that shaped the dissemination of dactyloscopy in Latin America and considers the place of Vucetich in the international debates on identification.

Latin America's first identification offices

In the late nineteenth century Argentina pioneered the use of new identification technologies. Anthropometry was a highly innovative procedure at the time, as the first identification office had only recently been established in 1882, at the Paris Préfecture de Police. And it was in 1889, just as this system created by Alphonse Bertillon received unanimous acclaim at the Second International Congress of Criminal Anthropology

(Paris), that Latin America's first anthropometry identification office was established in Buenos Aires.[7]

Several factors converged to bring this innovation in police practices so quickly to the Argentine capital. Argentina had been changing dramatically since 1880. From the marginal position it had occupied in the middle of the nineteenth century, it had become one of the fastest-growing economies, joining international markets as an agro-exporting nation.[8] During this period, Argentina also had the highest rate of immigrants in the world in relative terms, and the city of Buenos Aires developed into a cosmopolitan metropolis, only surpassed in the Americas by New York. After becoming the federal capital in 1880 (when the Buenos Aires province ceded it to the national government), the ruling elite set out to transform Buenos Aires into Latin America's most modern city. They not only sought to modernize the city through its architecture, but also by incorporating the latest ideas and technological developments into its nascent state institutions. This thrust of innovation brought the ideas of Italy's Nuova Scuola of criminology early to Argentina and prompted the opening of the identification office.[9]

In 1888, as Buenos Aires was about to join the new movement in anthropometry, Ivan Vučetić (who would later be known as Juan Vucetich) joined the Buenos Aires Province Police. Born in 1858 in Lesina (in what is today Croatia and was then part of the Austro-Hungarian Empire), Vucetich had emigrated to Argentina in 1884 and, despite his lack of a higher education, went on to have a successful career in the police force of his adopted land. Following the federalization of the city of Buenos Aires, the province had moved its capital to the new city of La Plata, located 60 km to the south, where it established the province's Central Police Department. From his position in the provincial police, in what was a marginal place even for Argentina, Vucetich developed his identification system.[10]

Vucetich joined the force as an accountancy trainee, soon earning a promotion to the Office of Statistics. He moved quickly through the ranks of the Statistics Office and before long was appointed director of this division. In 1891 he began publishing the *Statistics Bulletin* [*Boletín de estadística*].[11] This magazine was the first step towards forging international ties, and it put Vucetich among local police force modernizers. The sustained publication of the bulletin enabled systematic exchanges with other statistics offices and police departments.

Vucetich followed the opening of the Anthropometry Office in the city of Buenos Aires and began studying the issue, becoming an enthusiastic supporter of *Bertillonage*. In August 1891 the Police Department

commissioned him to establish an anthropometry office in the provincial police.[12] Years later he would remark that the idea of exploring the possibilities of fingerprinting came to him when he observed the enormous deficiencies in the anthropometry office in the capital. Even after two years of operation, none of Bertillon's meticulous instructions were being applied there, for example, feet were measured with the subject's socks still on.[13] The difficulty of applying the Bertillon system consistently and accurately was only too apparent.

When he opened his Anthropometry Identification Office on 1 September 1891, Vucetich classified fingerprints using Francis Galton's table of 40 patterns under nine types and primaries. He had recently come into contact with Galton's research in a popular scientific article featured in *Revue Scientifique*.[14] His classification, however, incorporated a number of innovations, including taking the prints of all ten fingers on a 9 cm by 20 cm card, employing a grooved wooden tablet of his own design (popularly known as *pianito*, or 'small piano') with five grooves carved into shapes that fitted each finger, and classifying the cards by right thumb and ring finger (and in some cases by left thumb and index finger as well).[15] Although he had yet to systematize an efficient method for classifying and recording fingerprints, he applied both anthropometry and a system he called 'icnofalangometría', a Spanish term he coined from a combination of the Greek words for 'figure' (*ichnos*), 'phalanx' (*phalagx*) and 'measurement' (*metron*).

Experimenting and innovating

As he opened offices in other parts of the province (a vast territory as large as present-day Italy), Vucetich embarked on a publishing venture aimed at training operators and disseminating the new methods. To train operators to apply these systems locally, he decided that instead of translating the works of Galton and Bertillon he would write his own handbook: *Instrucciones generales para la identificación antropométrica* (published in 1893).[16] In the section on fingerprinting, he explained the procedure for taking and classifying prints (based on Galton's four-letter fingerprint scheme, but expanding the number of possible patterns to 44). He did not, however, include instructions for filing and retrieving the cards.

In 1896 Vucetich published a new revised edition of his *Instrucciones*, which was significantly longer than the original 1893 handbook, and featured substantial changes in the methods employed. It introduced the *'Buenos Aires Province' Filiation System* [*Sistema de filiación 'Provincia*

de Buenos Aires'], which also spread across South America in the early 1900s, although it did not become as widely known as fingerprinting. This method involved recording certain simple morphological data and distinguishing marks and scars, and it abandoned all body measurements except height. Vucetich had also expanded to 101 the number of possible fingerprint patterns, but classification was still done by right thumb and ring finger.[17]

Vucetich explained that after six years of practice and having (unsuccessfully) identified over 6,000 individuals using anthropometry and fingerprinting, he could 'categorically' say that conditions were ripe for the adoption of 'fingerprinting as the most reliant and efficient form of identification'.[18] Consequently, in 1896 the Buenos Aires Province Police officially adopted this new filiation method and abandoned *Bertillonage*.[19]

In 1894, in line with the new importance ascribed to fingerprinting, the name *icnofalangometría* was dropped in favour of the more common term *dactyloscopy*.[20] Vucetich would later explain that in 1891 he thought *icnofalangometría* could be used for a future mixed system that would combine quantitative and qualitative methods. That was before he decided to base identification solely on fingerprinting. The new name was then adopted throughout the Latin world. However, this new method that was becoming increasingly known did not yet offer an efficient classification and registration system that would allow large collections of fingerprint cards to be organized.

It was only in 1896–7 that Vucetich started to work on the basis of three Galton types: *Primary* (translated as *Arco*); *Whorl* (*Verticilo*); and *Loop* (*Presilla*). He divided the loops into *inner* and *outer*, thus obtaining four types. He used letters for the thumbs and numbers for the other fingers: A = 1 (*primary*); I = 2 (*inner loop*); E = 3 (*outer loop*); and V = 4 (*whorl*). This way he obtained a simple system that enabled a classification based on all ten fingers, which were recorded in order from the right thumb to the left pinkie. This provided the *dactyloscopy formula* [*fórmula dactiloscópica*], a combination of letters and numbers that resulted in 1,048,576 possible combinations.[21] He had finally found the solution to the problem of fingerprint classification. This method would be known as the *Argentine dactyloscopy system* or *Vucetich system*.

The various works published in the 1890s were instrumental in positioning Vucetich as a regional expert in identification. With his *Instrucciones* he initiated the first contacts abroad, many of which were strengthened with the regular mailing of the *Statistics Bulletin*. From 1891 to 1900 his works were sent to major international and Latin American personalities

in the field of criminology.[22] Also, at the regional level, the La Plata bureau became a vivid example that such identification practices could be successfully implemented in the context of Latin American penitentiaries and police bodies, and that it was possible to generate innovations tailored to meet local needs.

Dactyloscopy and 'collective policing' in South America

The first years of the twentieth century brought significant changes to the major cities of South America. Growing urbanization had given rise to a rising crime rate, which could now be measured by the recently developed science of statistics,[23] while the high levels of immigration produced a negative backlash within the government and among the police. Argentina and Brazil passed laws for the expulsion of 'dangerous' foreigners, and the desire to jointly control the Atlantic space became a strong motivation for the harmonization of identification practices. Some 90% of the European immigrants who came to Latin America during this period reached the coasts of Argentina, Brazil and Uruguay through these sea routes. Police authorities increasingly saw themselves as waging a common battle against this deluge of 'dregs' from Europe, who brought with them criminal practices and disruptive political ideas.[24] They claimed that only a coordinated response would combat them successfully.

Vucetich and his system were at the heart of these efforts to coordinate actions among the region's police forces. Many Latin American cities had opened anthropometry identification offices in the 1890s, but most were merely symbolic.[25] Dactyloscopy offered huge advantages to police forces as it did not involve great investments, or require training or special skills. Moreover, it was considered less offensive to a person than body measurements and photographs, which were seen as a dishonour.[26] Its creator was a local colleague who could be contacted by letter in Spanish or personally in his office, where agents from other offices could be cheaply trained in the complex task of classification. Above all, this method made it possible to abandon anthropometry, which far from being an emblem of institutional modernization had become a revealing sign of institutional limitations. An added advantage was that it was a 'South American' method, and thus a vehicle and at the same time a symbol of this supra-national police unity that was being sought.

In March 1901 the first major presentation of the *dactyloscopy system* was conducted at the Second Latin American Scientific Congress held in

Montevideo.[27] While the congress issued no resolutions expressly recognizing dactyloscopy as the only means of identification, it did declare that it was a 'useful complement for the identification of individuals, and extremely practical for the identification of corpses'.[28] Vucetich also described what he considered was his system's global dimension: the potential for becoming a 'universal language' understood in courts around the world. To that end, he devised a plan to establish three intercontinental offices: one in North America; one in a European capital; and a third one in a South American capital. From that moment, Vucetich gained more and more supporters for his method in Latin America and Europe, who embarked on a 'crusade' to install dactyloscopy offices.

1905: Latin America chooses dactyloscopy

In late 1904 Police Chief Luis M. Doyhenard asked Vucetich to tour neighbouring Chile, Brazil and Uruguay to gather support for a South American police meeting. By then dactyloscopy had already become an important link that connected the region's police forces.

In 1903 it had been implemented in the Chilean capital of Santiago de Chile, and in what was then the capital of Brazil, Rio de Janeiro. In the first case, Deputy Chief Luis M. Rodríguez visited La Plata before opening the Santiago office.[29] In the second case, Félix Pacheco, Director of the Rio de Janeiro Police Identification Service, was trained through an improvised correspondence course, which involved making duplicate records and sending one copy to Vucetich for him to correct any mistakes in classification.[30] That same year, in the city of Buenos Aires, José G. Rossi introduced dactyloscopy in the Bureau of Investigations of the Police Department of the Capital of Argentina. Lastly, in March 1905 the capital of Uruguay, Montevideo, opened its Dactyloscopy Office under the direction of a police doctor, Alejandro Saráchaga, who was personally acquainted with Vucetich.[31] The police force of Asuncion (capital of Paraguay) sent officers to La Plata for training,[32] and in 1902 the system was adopted by the Police Department of Guayaquil (capital of the province of Guayas, Ecuador), which fell outside the circle of inter-police relations that had been formed.[33]

By the time the Third Latin American Scientific Congress was held in Rio de Janeiro in 1905, it was not surprising to find that dactyloscopy had prevailed over other methods. Most South American police forces were already using it, and it was hard to refute the broad international support it was receiving. The legal sciences section discussed

the system that should be adopted for criminal identification, and how Latin America's nations should organize their police departments. In the first matter, it was decided that 'anthropometry does not in itself identify, […] while a fingerprint card [called an *individual dactiloscópica* by Vucetich] alone can determine the identity of a person'. As for the second matter, it was determined that the different police forces should have a uniform organization, and to do that the adoption of Vucetich's system would need to be harmonized. To that end, it was suggested that an All Americas Police Congress be held.[34]

The ambitious plan of holding a congress with all of the continent's police forces was ultimately not realized. But in October 1905 those who had been promoting dactyloscopy for years gathered in Buenos Aires: Pacheco from the Rio de Janeiro police; Rodríguez from Santiago de Chile; Saráchaga from Montevideo; Rossi from the city of Buenos Aires; and Vucetich from the province of Buenos Aires.[35] They signed an agreement – subject to their governments' approval – for 'an ongoing exchange of police records of individuals who represent a threat to society, and the records of any honest persons who may request them, and of unknown corpses that may appear to be foreigners'. The range of individuals covered by the proposed exchange was wide, and it included a new category: 'labour agitators'. For the exchange of police records it was stipulated that the use of fingerprint cards classified according to Vucetich's system would be adopted, along with the 'Buenos Aires Province' filiation system and, in certain cases, photographs. Bolivia and Paraguay signed the agreement later, in 1906.[36]

In the years following this agreement, fingerprinting spread to other cities in these countries, and the pioneer offices in the capitals generally acted as centres for national dissemination and training. In some cases, Vucetich operated as a link between different regions within national territories. Other points of the Americas followed suit, among them Santo Domingo (Dominican Republic) in 1911,[37] Cuba in 1912,[38] and Mexico, which by 1919 had abandoned anthropometric classification.[39]

Interacting with Europe

International dissemination of the *Argentine dactyloscopy system* began in 1901, when the first pamphlet explaining the system appeared.[40] But it was with the publication of Vucetich's most important work, *Dactiloscopia comparada*, in 1904, that his system achieved its broadest dissemination. In addition to explaining the system in detail, this work described its origins and contextualized the new method within

the long-term history of identification. It was meant as a 'comparative' exercise with respect both to other identification methods (especially anthropometry) and to other developments connected with fingerprinting. It also included facsimiles of letters that Galton, Cesare Lombroso and Hans Gross had sent Vucetich during those years.[41]

Vucetich had acquired a much higher profile in France and had greater interaction with colleagues there than in other European nations.[42] After receiving a copy of *Dactiloscopia comparada*, Edmond Locard sent Vucetich a medical thesis on digital and palm prints presented by Albert Yvert at the University of Lyon, where the author concluded that 'of all the classification methods used, Vucetich's offers the most advantages'.[43] This thesis was translated into Spanish and published by the Buenos Aires Province Police, with an introduction that reproduced abundant correspondence praising Vucetich's work. The list of supporters was impressive (including local scientific authorities, like José Ingenieros, and international ones, like Alexandre Lacassagne, Locard and Salvatore Ottolenghi) and, on a regional level, it contributed to the 1905 success of dactyloscopy.

The successes of the Vucetich system in South America had a significant impact in Europe, where Bertillon's method was being intensely debated.[44] In terms of legal identification, the world was divided into countries that used dactyloscopy (not necessarily with Vucetich's classification, as several methods were used at the time, including Henry's, Pottecher's, Windt's, and variations of these systems), others that applied an anthropometry-based classification, and, lastly, a few that combined both identification systems.

The greatest interaction during these years was with members of the Lyon school of medicine in France.[45] In 1903, even before beginning his epistolary communication with Vucetich, Locard had observed that the so-called 'South American identification method' or 'Vucetich procedure' was a 'well thought-out, rule-based, and practicable' system.[46] But as of 1905 a series of publications put Vucetich and his system in the centre of the debate. Locard spoke out in favour of Vucetich's method, preferring it over other possible systems,[47] and Lacassagne noted that the 'simplest [method], *Vucetichism*, Vucetich's method, the one from Buenos Aires' should be the one chosen to classify fingerprints.[48] In 1906 Locard published an extensive piece on identification services around the world, for which Vucetich provided information on the system used across Latin America.[49] Locard maintained that this classification system was the most appropriate for an exchange records internationally. As he had promised Vucetich, he also defended these

ideas at the Sixth International Congress of Criminal Anthropology in Turin (1906).[50]

The French state reaction came at the end of 1906, when the Justice Minister invited the Academy of Science to give its opinion on which system – anthropometry or fingerprinting – was most effective for 'establishing an individual's identity' and avoiding inaccuracies in its application. Dr Albert Dastre's report was categorical with respect to the disadvantages of anthropometry: anthropometric measurements were useless for identifying young people; filling out and copying records involved a long procedure; and the system required the use of complex instruments, a special physical space and trained personnel. The methods based on fingerprint classification had none of these problems. The 'decisive progress' in fingerprint identification was the work of Juan Vucetich: his system was the most reliable as it was so 'simple, convenient, and easy to use'.[51]

A stage in Vucetich's career had come to a close, as he no longer had to prove the superiority of fingerprinting over anthropometric measurements for identification purposes. In Latin America that debate had been settled in 1905, and while some dissenting voices were still being heard, they had little political impact. The French Academy of Science – which was clearly a cultural beacon for the countries of South America – had also accepted the superiority of fingerprinting as a means of identification and the Argentine system as the classification method.[52] From that moment Vucetich would expand his efforts to spread the system to Asia, Africa and Oceania, with the greatest accomplishment being that of China and its acceptance of his system in 1912.

Conclusion

As with the Henry system, the dissemination of the *Argentine dactyloscopy system* shows the complexity and multilateral nature of the exchanges involved in creating and globalizing fingerprint identification. As Chandak Sengoopta notes, Galton was at the centre of the complex network that is the history of fingerprinting.[53] The impact of his work in France quickly spread to Argentina, where his research was a key source of inspiration to Vucetich throughout the various stages of experimentation that culminated in the development of his system. However, far from displaying an outward expansion movement from the centres of scientific production to the periphery, this process shows the close interconnection that existed between different corners of the globe. The solution to the problem of classifying and recording fingerprints was

found in the periphery, was then expanded through regional hubs and finally impacted on Europe.

From his first contact with police identification, Vucetich took on an eclectic approach, and he was actively involved in adapting the technologies and methods that came from Europe, as well as in combining them and innovating. As soon as he joined the Buenos Aires Province Police he became aware of the importance of finding solutions that could be implemented in local institutions. Thus, even before opening his anthropometry office, he began searching for alternatives that were more economical, required less training and could be implemented over vast territories. The creation of his system must be interpreted in the specific local context of the consolidation of Argentina's national state at a time of enormous economic, demographic and urban changes, and police modernization.

Moreover, Vucetich played a key role in the regional harmonization of identification policies and practices. He wrote anthropometry and dactyloscopy works in Spanish, making them accessible to police officers and focused on training the personnel of the Latin American offices. To his colleagues, he was a source of know-how, teaching them to organize and run an identification office in the specific institutional context of local police forces. Mass immigration – which transformed South American nations within a short period of time – and mobility between Atlantic ports fostered inter-police cooperation at a very early stage and gave dactyloscopy a platform to expand across Latin America.

Starting in 1891, Vucetich consolidated a network of exchanges between police officers that facilitated the circulation of the latest works on identification between Europe and Latin America, ultimately reaching countries that were not in contact with international circuits. He also centralized information on identification in the region and disseminated it throughout Europe. He interacted intensively with European colleagues, corresponding frequently and sharing works with them, often commenting and reading their writings before they were printed. Belgium, Spain, France, Italy and Norway implemented his system or versions of it, and his works were an unavoidable reference in the international debates on identification that took place in the early years of the twentieth century.

Years later, the hegemony of the Anglo-Saxon account of the history of fingerprinting would gradually erase the imprints left by this moment, in which different experts from around the world maintained intense ties and engaged in complex exchanges to rapidly shape the global expansion of fingerprint identification.

Acknowledgements

This research was conducted with the support of the South–South Exchange Programme for Research on the History of Development, International Institute of Social History, The Netherlands, and is part of a PhD dissertation on identification in South America currently under way (Universidad de San Andrés, Argentina).

Notes

1. 'La Dactiloscopia Argentina en China', *La Prensa*, 16 April 1913.
2. The importance of the transnational dimension has been highlighted since the publication of the volume edited by J. Caplan and J. Torpey (eds) (2001) *Documenting Individual Identity. The Development of State Practices in the Modern World* (Princeton: Princeton University Press).
3. V. Groebner (2007, trans. 2004) *Who Are You? Identification, Deception, and Surveillance in Early Modern Europe*, trans. M. Kyburz and J. Peck (New York: Zone Books).
4. See C. Sengoopta (2003) *Imprint of the Raj: How Fingerprinting Was Born in Colonial India* (London: Macmillan); S. A. Cole (2001) *Suspect Identities. A History of Fingerprinting and Criminal Identification* (Cambridge, MA: Harvard University Press), pp. 81–96, 137–9, 141–67.
5. J. Rodriguez (2004) 'South Atlantic Crossings: Fingerprints, Science, and the State in Turn-of-the-Century Argentina', *American Historical Review*, 109:2, pp. 387–416.
6. The lack of harmonization in identification practices within national states was common during this period. See Cole (2001) *Suspect Identities*, pp. 119–258. On the globalization of crime control in Europe and the US, see P. Andreas and E. Nadelman (2006) *Policing the Globe. Criminalization and Crime Control in International Relations* (Oxford: Oxford University Press), pp. 59–155.
7. I. About (2004) 'Les fondations d'un système national d'identification policière en France (1893–1914)', *Genèses*, 54, pp. 28–52.
8. See, for example, R. Cortés Conde (1992) 'Export-Led Growth in Latin America: 1870–1930', *Journal of Latin American Studies*, 24, pp. 163–79.
9. On Argentine criminology and its ties to the Italian School, see R. del Olmo (1992) *Criminología argentina. Apuntes para su reconstrucción histórica* (Buenos Aires: Depalma); G. Creazzo (2007) *El positivismo criminológico italiano en la Argentina* (Buenos Aires: Ediar). On the impact of positivist criminology in penitentiary institutions, see R. D. Salvatore (1992) 'Criminology, Prison Reform, and the Buenos Aires Working Class', *Journal of Interdisciplinary History*, 23:2, pp. 279–99; L. Caimari (2004) *Apenas un delincuente. Crimen, Castigo y Cultura en Argentina, 1880–1955* (Buenos Aires: Siglo XXI).
10. While certain interpretations include Vucetich in a group of European scientists who travelled to Latin America during those years looking for fertile ground to test new scientific theories, according to the biographical information available it seems more likely that he was an ordinary immigrant and that his career path was determined by his work in the police and his coming

into contact with local conditions. Cf. Rodriguez (2004) 'South Atlantic Crossings'.

11. The illiteracy of police agents was a chronic problem in the late nineteenth century. S. Gayol (1996) 'Entre lo deseable y lo posible. Perfil de la Policía de Buenos Aires en la segunda mitad del siglo XIX', *Estudios Sociales*, 6:10, pp. 123–38. Vucetich's math skills and his ability to read and write in several languages put him in a small institutional elite. While police historiography has grown significantly in Argentina in the last five years, it is still a relatively new field of study. See E. Bohoslavsky et al. (eds) (2009) *La Policía en perspectiva histórica: Argentina y Brasil (del siglo XIX a la actualidad)*, http://www.crimenysociedad.com.ar [accessed 30 December 2010].
12. J. Vucetich (circa 1920) *Historia sintética de la identificación* (unpublished), p. 6, endnote 1. Fondo de Juan Vucetich, Museo Policial Inspector Mayor Dr. Constantino Vesiroglos, La Plata, Argentina [hereinafter 'FJV'].
13. L. Reyna Almandos (1909) *Dactiloscopia Argentina. Su historia é influencia en la legislación* (La Plata: Joaquín Sesé), pp. 15–29.
14. H. de Varigny (1891) 'Anthropologie. Les empreintes digitales, d'après M. F. Galton', *Revue Scientifique*, 47:18, pp. 557–62.
15. Vucetich (circa 1920) *Historia sintética de la identificación*, pp. 34–6.
16. J. Vucetich (1893) *Instrucciones generales para la identificación antropométrica* (La Plata: Tipografía de la Escuela de Artes y Oficios de la Provincia).
17. J. Vucetich (1896) *Instrucciones generales para el Sistema de Filiación: Provincia de Buenos Aires*, 2nd ed. (La Plata: Solá, Sesé y Comp).
18. *Ibid*., p. 190.
19. Provincial Executive Decree, 6 November 1895, in force as of 1 January 1896.
20. The General Director of National Statistics said of Vucetich's system: '*Icnofalangometría* measures nothing […] it only observes a fingerprint […] in order for a name […] to match anthropometry DACTYLOSCOPY [should be used].' F. Latzina (1894) 'Reminiscencias platenses', *La Nación*, 8 January.
21. Vucetich subclassified the cards by counting the lines between the delta(s) and the centre of the nucleus, following the Galton method. In 1913 he divided the four types into five subtypes.
22. Vucetich sent his writings to Alphonse Bertillon, Cesare Lombroso, Raffaele Garofalo, Luigi Anfosso, Luigi Bodio, Francis Galton and Frank Baker, among others, and in Latin America to various officers in Mexico, Ecuador, Uruguay, Brazil, Chile and Bolivia.
23. J. Kirk Blackwelder and L. Johnson (1982), 'Changing Criminal Patterns in Buenos Aires, 1890 to 1914', *Journal of Latin American Studies*, 14:2, pp. 359–79.
24. J. Salessi highlighted the connection between port control and the use of identification technologies in Latin America. J. Salessi (1994) 'Identificaciones científicas y resistencias políticas', in J. Ludmer (ed.) *Las culturas de fin de siglo en América Latina* (Rosario: Beatriz Viterbo), pp. 80–90. On the links between legal and medical discourses and criminalization of immigration, see J. Rodriguez (2006) *Civilizing Argentina. Science, Medicine and the Modern State* (Chapel Hill, NC: University of North Carolina Press) and E. Zimmermann (1992) 'Racial Ideas and Social Reform: Argentina, 1890–1916', *HAHR*, 72:1, pp. 23–46.

25. Before the turn of the century, anthropometry offices opened in Argentina (Buenos Aires, 1889 and La Plata, 1891); Peru (Lima, 1892); Brazil (Rio de Janeiro, 1894, reorganized in 1899); Mexico (Belem prison, Mexico City, 1895); Uruguay (Montevideo, 1896); Ecuador (Guayaquil, functioning in 1899); and Chile (Santiago de Chile, 1900). In 1901, neither Paraguay nor Cuba had an identification office. C. Báez (1901) letter to Vucetich, 19 August; F. Ortiz (1902) letter to Vucetich, 3 April. FJV. The offices in Belem and Montevideo operated as annexes of penitentiaries, and anthropometry data was used for criminology studies. In Mexico, from 1895 to 1906, cards were classified alphabetically: E. Speckman Guerra (2001) 'La identificación de criminales y los sistemas ideados por Alphonse Bertillon: discursos y prácticas (Ciudad de México 1895–1913)', *Historia y graphia*, 17, pp. 99–129; A. Giribaldi (1905) *Identidad y filiaciones* (Montevideo: Talleres A. Barreiro y Ramos). Vucetich maintained that no positive results were obtained in La Plata: Vucetich (1896), *Instrucciones para el Sistema de Filiación*, p. 190. In contrast, the Buenos Aires city office annually identified over 600 repeat offenders operating under assumed names: M. García Ferrari (2010) *Ladrones conocidos/Sospechosos reservados. Identificación policial en Buenos Aires, 1880–1905* (Buenos Aires: Prometeo), pp. 128–44.
26. In Latin America, resistance to police identification was mostly due to the fact that it was seen as an offence to a person's honour, and not because it violated individual rights. See K. Ruggiero (2001) 'Fingerprinting and the Argentine Plan for Universal Identification in the Late Nineteenth and Early Twentieth Centuries' in Caplan and Torpey (eds) (2001) *Documenting Individual Identity*, pp. 185–96; O. M. Gomes da Cunha (2005) 'The Stigma of Dishonor: Individual Records, Criminal Files, and Identification in Rio de Janeiro, 1903–1940' in S. Cualfield et al. (eds), *Honor, Status and Law in Modern Latin America* (Durham, NC: Duke University Press); M. García Ferrari (2007) '"Una marca peor que el fuego." Los cocheros de la Ciudad de Buenos Aires y la resistencia al retrato de identificación' in Lila Caimari (ed.), *La ley de los profanos. Delito, justicia y cultura en Buenos Aires (1870–1940)* (Buenos Aires: FCE), pp. 99–133.
27. As in Europe, a circuit of scientific congresses was formed in Latin America, prompted by the Argentine Scientific Society (created in 1874).
28. Despite strong links with the United Kingdom, the Belper Committee discussions (1900) or the opening of the Fingerprint Branch at Scotland Yard directed by E. Henry (1901) were hardly mentioned in South America. J. H. Olivier et al. (1901) *Segunda Reunión del Congreso Científico Latino-Americano*, vol. 4 (Montevideo: 'El siglo ilustrado').
29. Vucetich (circa 1920) *Historia sintética de la identificación*, p. 48. FJV.
30. F. Pacheco (1903) letter to Vucetich, 15 March. FJV.
31. A. Saráchaga (1906) *Dactiloscopia y convenio internacional de policía* (Montevideo: El Siglo Ilustrado).
32. H. Guedes de Mello (1907) *Terceira reunião do Congreso Scientifico Latino-Americano, tomo VII, Relatorio Geral* (Rio de Janeiro: Impresa Nacional), pp. 55–8.
33. Guayaquil Police Department (1903) letter to Vucetich, 28 February. FJV.
34. Guedes de Mello (1907) *Terceira reunião do Congreso Scientifico Latino-Americano*, pp. 56–7.

35. *Actas del Convenio* (1905) Conferencia Internacional de Policía, Buenos Aires, 11–20 October (Buenos Aires: Imp. y Enc. de la Policía de la Capital Federal).
36. *Revista de Policía* (1906) Year II (15: January), 12 and (17: March), 2–6. In Uruguay, the agreement had to be ratified by the Medical Society. A. Turenne and B. Etcheparre (1906) 'Identificación. Antropometría y Dactiloscopia', *Revista Médica del Uruguay*, 9:11, pp. 101–26.
37. J. G. Obregón García (1911) letter to Vucetich, 20 June. FJV.
38. Cuban lawyer and anthropologist Fernando Ortiz came into contact with Vucetich in 1902 and trained with him by correspondence. He was appointed Director of the National Identification Bureau in 1912. The Henry system had previously been used unofficially in Cuba. F. Ortiz (1902) letter to Vucetich, 3 April; (1910) letter to Vucetich, October undated; J. Vucetich (1912) copy of the letter to Ortiz, 23 October. FJV.
39. According to Speckman Guerra, in 1912 Vucetich's system was used in Mexico along with anthropometry, in 1919 classification was done exclusively through fingerprinting, and well into the twentieth century it was used across the country. Speckman Guerra (2001) 'La identificación de criminales y los sistemas ideados por Alphonse Bertillon', p. 127.
40. J. Vucetich (1901) *Sistema Dactiloscópico*. Lecture delivered at La Plata Public Library on 8 September (La Plata: n.d.).
41. J. Vucetich (1904) *Dactiloscopia comparada. El nuevo sistema argentino* (La Plata: Jacobo Peuser), pp. 39–44.
42. During these years, Vucetich maintained exchanges with colleagues in Austria, Belgium, Germany, Italy, Romania and Spain. Starting in 1896 he also sent all his works to Galton in the United Kingdom. The advances made in the field of fingerprinting in the United Kingdom had little impact in Latin America, where instead the debates on identification in France were followed closely with interest.
43. A. Yvert (1905) *Impresiones digito-palmares (la dactiloscopia)* (La Plata: A. Gasperini), p. 113.
44. See P. Piazza (2005), 'Alphonse Bertillon face à la dactyloscopie. Nouvelle technologie policière d'identification et trajectoire bureaucratique', *Les Cahiers de la sécurité*, 56, pp. 251–70.
45. On the importance of the Lyon school in French criminology, see M. Kaluszynski (2002) *La République à l'épreuve du crime. La construction du crime comme objet politique, 1880–1920* (Paris: LGDJ), pp. 5–74.
46. E. Locard (1903) 'Chronique Latine', *Archives d'anthropologie criminelle*, 18, pp. 578–92.
47. E. Locard (1905) 'Chronique Latine', *Archives d'anthropologie criminelle*, 20, pp. 186–7.
48. A. Lacassagne (1906) *Précis de MédecineLégale* (Paris: Masson), p. 217.
49. E. Locard (1906) 'Les services actuels d'identification et la fiche internationale', *Archives d'anthropologie criminelle*, 21, pp. 145–206.
50. *Ibid*. See (1908) Comptes rendus du 6^{e} Congrès international d'anthropologie criminelle. Turin, 28 April–3 May 1906 (Milan/Turin/Rome: Bocca frères éditeurs), pp. 321–37, 397–412.
51. In Italy, Ottolenghi was familiar with the system as of 1901, and in 1905 he began using it in Rome. S. Ottolenghi (1905) letter to Vucetich, 2 September.

After the French Academy issued its opinion, in 1908 the Belgian government authorized E. Stockis to create a legal identity service, for which he adopted Vucetich's system. E. Stockis (1908) letter to Vucetich, 19 August. FJV. In Spain, F. Oloriz Aguilera began to use fingerprinting in the General Board of Prisons in 1907, F. Oloriz Aguilera (1909) letter to Vucetich, 24 September. FJV.

52. The opinion of the French Academy of Science did not lead to the abandonment of anthropometry in France. Also, as Piazza notes, Bertillon began fingerprinting in 1894; as of 1905 he classified the records of all the men who were arrested according to their fingerprints, based on a method derived from Vucetich's; and in 1909 he created a section devoted especially to the identification of fingerprints. See Piazza (2005) 'Alphonse Bertillon face à la dactyloscopie', pp. 257–63.
53. Sengoopta (2003) *Imprint of the Raj*, p. 98.

4

The Philosopher and the Printer: Practices of Criminal Identification in Fascist Italy

Massimiliano Pagani

Introduction

In the history of criminology the second half of the nineteenth century ushered in revolutionary changes in identification practices. Police departments adopted new technologies, such as anthropometry, judicial photography and fingerprinting, all of which promised to produce evidence through the uniqueness of each individual body. A similar approach was inspired by a biological reading of criminal behaviour, as proposed by Cesare Lombroso in the 1870s. The dominant literature on the subject promotes a technological and deterministic approach, claiming that scientific advances ushered in a revolution in police investigations and depicting the connection between earlier technologies of identification and modern DNA typing by means of a linear rising curve.

As the other contributions to this book testify, researchers more sympathetic to the social and historical dynamics that produced such technologies promote a more complex explanation of the development of scientific policing. This study expands upon this research and illustrates the difficulty in portraying these technologies as points on a scale of linear development by offering an insight into the state of identification technology in Italy at the beginning of the fascist era. The debate about the Bruneri–Canella trial, a case of identity fraud, offers us the opportunity to question the picture of science as a self-explanatory activity whose progress in history is cumulative and progressive. The rebuttal of fingerprinting, in the midst of the rise of fascism, put a question mark over the role of Lombroso-style 'biological reading' of the criminal within the racist policy promoted by the Italian regime. What emerges is that the biological reading of criminal behaviour and scientific

policing played a marginal role in the Italian courts and in police routine. The development of scientific policing, it is suggested, was useful for specific group interests and was accepted only in criminal cases involving members of the lower class. As such, modern identification technologies were a way of improving the social status of police clerks as well as being a stigmatizing technology of social control. Whenever applied outside this context, as in the trial under examination, such technologies lost their meaning and gave rise to a radical renegotiation that undermined their reliability as a practice and as science. In the case under examination, the debate between the 'experts' that followed such renegotiation anticipated, both in form and substance, more recent attacks upon fingerprinting, which have occurred since the 1990s.

The Colegno Amnesiac

On 10 March 1926, in Turin, Italy, a man was caught stealing bronze vases from a Jewish graveyard. Taken to the local police headquarter, the Turin *questura*, he displayed a deranged state of mind, not remembering anything of his past and attempting to commit suicide. Officers knew well how to deal with uncooperative individuals.

From the beginning of the twentieth century, the School of Scientific Policing, an institute founded to promote modern techniques of criminal prevention under the guidelines established by anthropologist Cesare Lombroso (1835–1909), had managed criminal identifications at the national level. Promoting a protocol of identification based on anthropometry, photography and fingerprinting, and building up a central criminal register, the School checked constantly the quality of the identifications carried out in the peripheral *questure*, and published guidelines, statistics and suggestions in a yearly bulletin sent to prefects, police officers and political authorities.[1] Particular attention was dedicated to recidivists and deceivers who concealed their true identity. Already in 1912, the head of the national police force, Giacomo Vigliani, had proudly attested the efficiency of the system, stating that one-third of the 1,000 identifications performed that year concerned deceivers who had declared false identities.[2] The protocol of identification, compulsory for many categories of convicts since 1910,[3] required the compilation of a criminal individual card in two copies, one to be sent to the central register in Rome, the other kept in the local archive.

In Turin, police officers followed the protocol step by step. Checking the subject's registered criminal record, they filled in the criminal individual card with the suspect's mugshot, his fingerprints and a complete

physical description, and sent a copy to the Italian Police School for Advanced Studies in Rome for a comparison. Submitted to the doctor on duty for an evaluation, the subject was declared insane and socially dangerous, and his immediate confinement in an asylum was strongly recommended. Before the end of the day, the individual was registered as No. 44170 at the Collegno asylum near Turin. When the Police School sent a negative identification response, the examining magistrate, Giulio Carron Ceva, declared that they were unable to charge the *smemorato* (amnesiac) for the theft in the cemetery.

On 5 February 1927, a short article published in a popular illustrated weekly magazine, *La Domenica del Corriere*, dedicated a few lines to the case. Sensitive to World War I veterans' misadventures, the journal had already published unbelievable stories such as the incredible journey of Diamante Chiavarone. Missing in action for nine years, and officially declared dead, Chiavarone had walked back home from Austria where he spent a period in a prison camp.[4] The article about the *smemorato*[5] included a photo and roused the interest of a reporter of the newspaper *La Stampa*, Ugo Pavia, who, in an article of 6 February 1927, described him as 'a cultured and distinguished man, about forty-five years old […] with a very slight inflection that may suggest a long stay in the Venezia Giulia [the north-east part of Italy]'.[6]

Pavia's article prompted a vast number of responses. Professor Federico Rivano, director of the asylum holding the amnesiac, selected one from a lecturer of the University of Padua, Renzo Canella. According to Renzo, the published photograph of No. 44170 resembled the face of his brother, Giulio Canella, a renowned Italian philosopher, an editor and a professor of ethics in the School of Verona, who had been declared missing in action on the eastern front in Macedonia, near the city of Monastir (modern-day Bitola), in 1916. He left a wife and two children behind. Renzo and the *smemorato* met a couple of times before Giulio's wife, Giulia, was involved. When she came to Collegno, Giulia assured Giovanni Marro, the renowned anthropologist and psychiatrist and manager of the anatomy laboratory of the asylum that the *smemorato* was indeed her beloved husband. On 2 March 1927, she took him to Verona with the consent of the asylum administration.

The next day, an anonymous letter, claiming that the *smemorato* was in fact Mario Martino Bruneri, anarchist, swindler, adulterer and, most serious of all, a recidivist convicted of fraud and attempted murder, was delivered to the Turin police *questura*. Despite the Police School of Advanced Studies' negative identification of the *smemorato*'s fingerprints, and one year of reassuring remarks by the staff at the asylum,

the chief constables in charge of the investigations, Finucci and Palma, carried out an exploratory survey on Bruneri's profile.

The files showed that Mario Bruneri was indeed a criminal with an established record. He had four convictions for fraud and forgery, the last one sentenced by default in 1926. Inspectors decided to get the 'professor' back under their control and, on 6 March 1927, Finucci brought him back to the asylum under the pretence of further examinations. With the supposed recidivist back in the cage, police officers could check every detail of the case from the beginning.

The fingerprint problem

The unsuccessful fingerprint identification worried Finucci and Palma most. Police officers' belief in fingerprinting was supported by twenty years of practice. In 1927, the technique was routinely applied in criminal identification all over the country. By the end of the year, the balance of the Advanced School of Police's central identification register added up to 251,242 individual cards, with a production rate of about 13,000 cards per year. Forty-five forensic laboratories distributed throughout the country carried out more than 200 identifications per year, mainly by means of fingerprinting only, and none of them had ever been seriously contested in courts; and the Turin *questura* was contributing to the central register with more than 1,000 personal criminal cards per year, being one of the most effective in the country.[7]

The investigators could not accept that a recidivist like Bruneri, arrested three times in Turin, could still be unknown to the central register in Rome. To solve the mystery they set off in search of Bruneri's fingerprints, finding them in the files of the Turin prison where Bruneri had been held when arrested. They took new mugshots of the *smemorato* and sent all the information collected back to Rome, together with the individual card drawn up at the time of his 1926 arrest. This time, the School replied with a positive identification.

Although there was no official explanation for the initial unsuccessful identification, the head of the School, Salvatore Ottolenghi (1861–1934), admitted in a long interview published in 1927 that nobody in the *questura* had put Bruneri through the necessary identification procedure in the three prior arrests.[8] This admission referred to the other aspect of the development of Italian scientific policing. Since the first issue of the School's periodical publication, the *Bollettino della scuola di polizia scientifica*, the management ascribed flaws in the criminal identification systems to a diffuse form of 'misoneism' characterizing experienced

police administrators and officers. This resiliency resulted in fatal errors and deficiencies involving especially fingerprinting and photography. Furthermore, judges rarely considered scientific policing essential for verdicts of identification and, even though fingerprints had never been questioned in court, the ratio of recidivists identified by that means in the 1920s remained under 6%.[9] The result was that, even though Italy was no longer the only European country lacking a modern scientific criminal policy as in 1902,[10] by 1927 the rate of diffusion of fingerprinting was still below the European average.[11]

As Ottolenghi explained extensively in the *Bollettino*, the development of scientific policing had revealed a successful but incomplete process that required appropriate and continuous impulses to improve. As such, the corrective action the School was exerting on peripheral identification bureaus could not be limited to public denouncements in the *Bollettino*; to be effective, it had to be sustained at the political level by the personal intervention of the General Director of the Police and the head of the national police force. This political commitment had characterized liberal governments' relationship with the School since its foundation, and it gradually faded away with the rising control of the police by fascists.[12]

On 11 March 1927, the Stefani agency, the Fascist office in charge of public information, broadcast the news with the usual triumphant style. 'Investigations' supported by 'irrefutable scientific evidence, like the successful comparison of fingerprinting details personally carried out by the experts of the Advanced School of Police', it was communicated, 'showed him [the supposed Giulio Canella] to be a deceiver, identified with the previous offender Mario Bruneri.'[13]

This was intended to be the appropriate closure of the case. After the confrontations with Bruneri's and Canella's relatives and acquaintances, which the *smemorato* had been forced to undergo since his return to the asylum, science had the last word. On the one hand, the immediate result of the fingerprinting identification was the incrimination of the *smemorato* by the Royal Prosecutor as Bruneri had one sentence for fraud still to serve. On the other, though, Mario Bruneri's appearance on the scene completely transformed the case into a family issue, and the criminal matter into a question of honour.

With time, investigators, journalists, lawyers and magistrates were asked not only to match up the two figures of Mario Bruneri and Giulio Canella to the *smemorato*, but also to compare the honesty of the two families and the two women involved: Giulio's wife, Giulia, and Mario's lover, Camilla 'Milly' Ghidini. Since fingerprinting had taken sides so

clearly, the result of this comparison could logically be read as a judgment on the reliability of Italian scientific policing.

Some of the characters already saw the issue at stake in 1927. In the same book interview in which he dismissed the 1926 unsuccessful identification as a minor mistake, Salvatore Ottolenghi underlined that only 'fingerprinting had made the miracle to give back the *smemorato* his lost memory and personality'.[14] Defending the reliability of the system, he replied to the critical positions taken by fascist newspapers like *Il Regime Fascista* and *Il Popolo d'Italia*, whose directors had explicitly put on the same plane Giulia's honour and the reliability of fingerprinting.[15] The Catholic newspaper *L'Osservatore Romano* had made this issue explicit in March 1927: 'if this uncertainty will resolve itself in favour of Professor Canella, then fingerprinting, a theory so far considered foolproof and for this reason often rightly taken as the only foundation of countless and also serious judicial decisions, would be seriously damaged'.[16]

To avert such a risk, fingerprinting had to play a key role in the sentence the penal court of Turin was expected to pass before the end of the year. In the meantime, the number of testimonies drawn up at Collegno for cross-examinations grew exponentially.

Printer or philosopher?

The profiles of the two characters emerging from the confrontations with Canella's and Bruneri's acquaintances were quite different. The Bruneris were a typical working-class family both by lifestyle and upbringing; the Canellas a well-off family, with important connections both in the political and religious arenas. Mario Bruneri grew up in Turin, one of the most important cities in Italy, home of the royal family, and an important industrial centre; Giulio Canella in Verona and Padua, small cities forged by a Catholic tradition and with a proto-industrial life that prevented the formation of a strong working-class movement.[17] Bruneri worked as a printer with a famous publisher in Turin, living with his family until the age of 20 and, together with his brother Felice, maintaining his mother and sisters. He had been dedicated to politics, holding important managing positions in the Book Federation. Acquaintances who had met him in this period bore witness to his passionate political activity and his honesty. By contrast, Giulio Canella studied at the Padua Episcopal seminary and took philosophy courses at the University of Padua. After graduating, he started teaching pedagogy and ethics in a high school in Verona. He was a renowned scholar and the co-founder of the *Rivista neoscolastica di filosofia* (Neo-Scholastic

Journal of Philosophy), together with Father Agostino Gemelli, the former assistant of the recipient of the 1906 Nobel Prize for medicine, Camillo Golgi.

Their personal lives were also very different. In 1909 Mario Bruneri had married Rosa Negro, a fervent Catholic who could hardly tolerate Mario's political and social activities at the Book Federation.[18] When economic problems made the couple move in with Rosa's mother outside Turin, tension in the family increased and forced Mario to drop some of his commitments. Giulio Canella, on the other hand, met his cousin Giulia in 1906. She shared his values and his visions of the world and, since their marriage, in 1913, she had been a perfect wife and companion.[19]

Bruneri and Canella had reacted differently to the adversities life threw at them. Mario avoided his military service in the trenches of the First World War thanks to the remnants of an old ear infection, but in 1918 the Spanish 'flu struck him so hard that he lost his job. By that time, his marriage was ruined and Mario the printer, the honest socialist, turned into the rascal Bruneri. Wandering away from Turin, going with women of poor repute, his crimes seemed like desperate attempts to get his old life back; he stole money to publish a treatise on religion and to sponsor the publication of a philosophical magazine. In 1919 he began assuming forged identities: he was Ettore Mingozzi from 1922 until 1923, Enrico Montaut in 1923, Raffaele Lapegna in 1924, and Alfonso Mighetti from 1925 until 1926. Arrested, he left his fingerprints in the Turin prison: on 21 January and 2 July 1920, and on 14 January 1922.

Things had turned bad even for Canella. In 1914, Gemelli expelled him from the editorial office of the journal. In 1915, he was exempted from military service thanks to the intervention of influential friends, who could do nothing when he was called back by the army in May 1916. Put in charge of a company and dispatched to Macedonia, he fell into an ambush near Monastir. Survivors recalled Captain Canella wounded and surrounded by enemies. As of 25 November 1916, this was the last news of him.

While Giulio Canella was an excellent product of the Catholic upper middle class, Mario Bruneri resembled a self-taught man, a member of the working class, who used culture and politics as means to change his social status radically, and failed. Judges of the penal court of Turin trusted in such differences to produce the identification. By reading the writings of the *smemorato* during his permanence at the asylum, though, their uneasiness became evident. In respect of the amnesia, they found that the renowned philosopher's publications did not differ much from the despicable printer's compositions.[20]

Judges turned their attention to the *smemorato*'s public and private acts as reported by his friends and relatives. The court evaluated the credibility of all the testimonies whose number amounted, excluding relatives, to at least 64 persons only on the Canella side. Of all the testimonies, only two characters could make the difference; one was Mario's lover and companion, former prostitute Camilla Ghidini. Camilla 'Milly' Ghidini had lived with Bruneri in Turin until the day of the arrest at the cemetery. She revealed details of that morning and provided evidence of a correspondence kept in secret with him during his time at the asylum. Letters were shown and accomplices denounced and enrolled as witnesses.

The figure of Milly, though, could not match up to the virtuous and pious Giulia Canella, and Giulia was indeed the main puzzle. A respectable member of the Verona upper class, a loyal Catholic and a widow who had brought up two babies by herself for 11 years, Giulia could be considered neither naive nor dishonest.

This then was the core of the trial. In that precise historical moment, Giulia embedded positive values of femininity promoted by the two major conservative movements in Italy. Catholics saw her as the perfect wife and the beloved mother, 'steady like an unshakable tower' in her faith in God,[21] and in her love of her recovered husband. For different reasons she embodied fascist moral values as well. Her loyalty towards the missing husband, her impeccable behaviour as a war widow, as well as the courage and dignity shown during the most embarrassing phases of the affair, won the sympathy of many. It was her moral strength that stood alone against all the forensic and psychiatric surveys during five long trials. The testimony of such a figure could not be reconciled with the evidence of Mario Bruneri's fingerprints.

Science in court

Besides witnesses, the Royal Prosecutor based the charge on a series of scientific surveys. Among them, the court commissioned Dr Alfredo Coppola, the Palermo Psychiatric Hospital head physician and untenured university lecturer, to conduct a psychological survey. Coppola was tasked to detect mental damages due to the disorder, but his 700 pages account was instead a diagnosis of healthy mental behaviour, an accusation of malingering that was based on the more advanced psychological experimental techniques.[22] Coppola compared his experimental results on the *smemorato* with the psychological profiles of both Mario Bruneri and Giulio Canella. As the two profiles relied upon second-hand, unchecked information, though, the comparison was gratuitous and

in open contrast with the methodological approach Coppola proudly presented as the 'Italian way to psychiatry'.[23] Furthermore, this contrasted with the opinion of the doctors at Collegno, who had studied the *smemorato* for more than a year without detecting any sign of malingering. Among them there was an expert in the detection of malingering, Professor Carlo Ponzo, ward doctor at the asylum and assistant professor at the Psychology laboratory of the University of Turin.[24] Moreover, Professor Mingazzini, an eminent psychiatrist, openly contradicted Coppola's judgment and diagnosed a 'polyglot's aphasia' and a 'protracted sub consciousness on a hysterical basis' that justified the complete loss of Greek and Latin, languages mastered by Giulio Canella. As a result, the court dismissed Coppola's survey as not sufficient to the task and as dictated by a biased approach.[25]

Renowned Italian criminal anthropologist Mario Carrara was entrusted with the anthropological examination. A former assistant of Lombroso, Carrara had taught legal medicine at the University of Turin since 1927. He carried out a physical examination of the *smemorato* and compared the results with the known somatic types of both Giulio Canella and Mario Bruneri. This task turned out to be harder to accomplish than originally thought. Carrara had the problem of dealing with documents drafted many years before the trial, the accuracy of which was unverified and could not be confirmed. Accordingly, the *smemorato* was both shorter than Canella and taller than Bruneri; his feet were bigger than Bruneri's; his brow seemed different from Canella's. If scars on the face and on the back, and a tooth outside its proper dental arch put forward evidence in favour of the identification with the printer, Bruneri's freckles and skin spots seemed no more in their position on the *smemorato*'s body. Even considering that the face had aged, weight had fluctuated and scars could have changed over the years, the *smemorato*'s feet size did not match Bruneri's, a fact that was given great weight by the court.[26]

The medical comparison attracted considerable attention but was equally useless. Mario Bruneri was supposed to show traces of syphilis because of his frequent relations with his last lover, Milly, and his 'shameful and ignobly libertine life after the war'.[27] Giulio Canella, on the contrary, was not expected to exhibit symptoms because of his personality and his social pedigree. On this point the Meinike test commissioned by the court and the Wasserman reactions carried out in the asylum offered contrasting results.

Deputy-Inspector Ugo Sorrentino, the future head of the Police School of Advanced Studies in Rome, was the 'experienced and competent technician' entrusted with the fingerprint and photography survey.[28]

Discovering false identities had been the School's task since its foundation, and after twenty years the police experts had developed a tested and successful methodology, which was the basis of thousands of identifications and convictions.

The photographic analysis was the result of a comparison between the family pictures of Giulio Canella and the *smemorato*'s mugshots taken in March 1927. In carrying out his task, Sorrentino followed the guidelines for a perfect photographic identification regularly published in the School bulletin.[29] The main conditions for a correct comparison were the identical position of the subject inside the photo and the lighting had to be as close as possible to that in the original photos; if both conditions were satisfied, the two pictures could be considered homologous and the identification possible. It was because of those guidelines that Canella's experts opposed Sorrentino's survey. Relying on an existing literature critical to photographic criminal identification, and promoted by renowned professional photographers,[30] they argued that this was not a case of homologous photographs; hence the identification could not be carried out scientifically. The court took note and duly sidelined the evidence.[31]

In challenging Ugo Sorrentino's fingerprint survey, Canella's experts, Professor Giangiacomo Perrando and Professor Rinaldo Pellegrini, presented the first and only constructivist analysis of fingerprinting ever produced in Italy. The matching of two or more fingerprints could not be considered a simple and mechanical result, they affirmed. Instead, every step of the procedure was open to mechanical and cognitive mistakes: too much ink during the recording session, wrong movement and wrong pressure of the finger, wrong reading and classification, and wrong retrieval. In this case, they claimed, the bad state of the prints taken from the Turin prison registers cast doubts on the whole process.[32]

They warned the court against the risks of a blind trust in fingerprinting. The impossibility of detecting wrong identifications, they said, was built into the system itself; the only place where such detection could occur was in the court, but 'fingerprint testimonies are committed to those same experts who should be put under critical examination'.[33] Furthermore, the 'blind and absolute faith of lay persons' in fingerprinting prevents lawyers from requiring further testimonies'.[34]

Inspired by the international literature, Perrando and Pellegrini attacked the theoretical core of the practice of fingerprinting. If performing fingerprint identification meant evaluating the degree of commonalities between two different prints, and fixing a similarity threshold under which identity would fall, how could this threshold be determined? Perrando and Pellegrini provided an account of several contrasting

approaches to the matter that cast doubts on both the 'mechanical objectivity', naively attributed to the practice, and the 'trained judgment', which the experts were supposed to possess.[35] The former was based on a minimum number of points of similarities that could statistically prove the identification between two prints. The identification threshold, though, varied from country to country.[36] The latter relied on the interpretation of the expert, which was subject to human error. Even though only one difference between two fingerprints could invalidate the identification, as Ottolenghi declared defending the 'trained judgment', 'how can we be sure […] that that same difference cannot escape the analysis of the expert?'[37]

A scientific solution to all the problems listed, Perrando and Pellegrini concluded, required a critical approach, which went beyond that expected of police constables.[38] If fingerprinting had to be scientific, then, it should be taken away from the police; otherwise, the technique could not be properly credited with scientific authority.[39] What Perrando and Pellegrini did, in fact, was shift the focus of the argument from the personalities to the professional training of the experts, the way they were taught, and the way things were carried out when they dealt with a case. They discussed the 'self-respect' of police officers that made them eliminate the 'dubious case' and read the prints with a 'poor critical attitude'.[40] Moreover, having the whole dossier at his disposal, and working side by side with the same men who were presenting the charges, a technician's reading of the print could result in an influenced, biased interpretation of the final result.[41] Unexpectedly, the penal court of Turin was a fertile ground for such criticism.

The value of identification

On 23 December 1927 the verdict of the penal court of Turin came as a complete surprise. Having considered all the technical surveys and the testimonies, the court found them equally distributed among the parties. As for other famous cases of identity frauds, the court could not rely on the body as a means of identification.[42] Judges admitted that the surveys 'in their totality, amount to an impressive group of reasons in favour of the Prosecutor's thesis of an identification [of the *smemorato*] with Bruneri'.[43] However, the evidence was considerably weakened, when put through the same analytical and critical treatment as the technical testimonies reported above.

Emphasizing once again that Giulia's sincere identification 'must be considered the core of the inquiry',[44] the judges claimed that they could

not reach a decision, because of the existence of 'two sets of evidence that do not invalidate each other, but on the contrary they coexist and develop side by side, and point toward different solutions'.[45]

Once the judicial precedent against fingerprinting had become a fact, representatives of forensic sciences, psychologists, fingerprint experts as well as anthropologists and influential members of the police rallied to defend 'pure science' against what they called 'silly women's gossip'.[46] Salvatore Ottolenghi denounced the illogical reasoning underlying the verdict, with fingerprinting seen as evidence and, at the same time, sidelined as useless.[47]

Rather than being 'illogical', the verdict provided a hint of the social role fingerprinting played in Italy. Embedded in Lombrosian practices from its inception, fingerprinting had been considered an identification tool reserved for criminals, rather than the ultimate identification technique. Ottolenghi's efforts to extend its range to non-criminal areas were unsuccessful. Between 1919 and 1921, important institutions such as the Ministry of War and the Ministry of Postal and Telegraphic Communication refused to add fingerprints to soldiers' documents and postal chequebooks.[48] In 1926, the Ministry of the Interior refused to make the inclusion of the fingerprint mandatory on the ID card.[49] From 1927, with the start of a new trend in criminology promoted by the head of the national police force, Arturo Bocchini, scientific policing was sidelined and Ottolenghi's school was progressively released from tasks that special departments of the police, party organizations and employees of the Ministry of the Interior were now entrusted with.[50]

Within this context, when Mario Bruneri's brother, Felice, sued the *smemorato* at the civil court of Turin in 1928, the scientific community closed ranks, fearing another attack. Since the court did not allow the parties to present further evidence,[51] the sentence of 5 November 1928, which identified the *smemorato* as Mario Bruneri, based itself on the same facts as the 1927 verdict.

Although the judges were positive about fingerprinting, stating that '[t]he declared incredulity about the scientific principle that guides identification techniques is like the vulgar guffaw of the illiterate yokel when someone explains to him that, contrary to his own belief, the sun doesn't go around the earth', the final verdict relied solely on testimonies.[52]

The *smemorato* appealed, asking for new expert surveys and, on 7 August 1929, the Turin court of appeal rejected the request, confirming both its faith in forensic sciences and the sentence of the first civil court.

Since the 1928 sentence impeded Giulia and the *smemorato* from baptizing their two newborns 'Canella', they reacted by promoting an

unsuccessful petition.[53] In the end, Elisa and Camillo could be baptized only by reference to personal relationships with the local diocese, which was to cause serious embarrassment for the Vatican.[54] Hence, when the Supreme Court decided to quash the sentence of the Court of Appeal on 24 March 1930, because the denial of further technical surveys lacked a 'fair and exhaustive rationale',[55] influential political and religious personalities entered the scene.

The last act of the drama was played out at the Court of Appeal in Florence. The legal teams appeared much more impressive than in the first trial, including governmental delegates such as Deputy Filippo Ungaro, renowned Church representatives, such as Professor Francesco Cammeo and representatives of the regime, such as Roberto Farinacci. On 1 May 1931, the final verdict declared the *smemorato* to be Mario Bruneri. He had to serve sentences for an overall period of three years and eleven months.[56] In his 1942 book, the President of the Court of Appeal, Vincenzo Vescovi, clearly emphasized the reasons supporting the sentence. Besides the declaration of esteem and support for forensics, the courts had based the verdict on testimony only, sidelining fingerprinting. The justification of such a strategy was emblematic: 'There is no need for the judge to take it [fingerprinting] in consideration whenever its technical practices are subjects of controversy, and at the same time he can reach the identification by other equally valid evidences.'[57]

As with any other form of measurement, the practices of personal identification we support define 'who we are and what we value'.[58] By promoting fingerprinting as a neutral and universal identification technology, Salvatore Ottolenghi underestimated the complexity of the social component implicit in the phrase 'in all knowledge',[59] and dismissed the court's decision as a 'public psychosis' and illogical.[60] Rather than flawed logic, the court's decision revealed the social nature of fingerprinting at that time. The diffusion of fingerprinting within the Lombrosian scientific police had allowed judges to put boundaries upon fingerprint identification since its introduction in courts. Far from being seen as a universal identification method, fingerprinting was in fact routinely applied to detect and mark specific kinds of criminals, mostly members of the lower social class. It was because the judges accepted and respected the activities of fingerprint experts in this context that they could 'adjust their reasoning' in 1927.[61] The Bruneri–Canella trial had become a trial about the relationship between Giulia and the *smemorato*, and this was a matter that required wisdom and culture rather than black spots left on a paper. It was a matter of honour and social class, religion and belief. It was a job that went well

beyond police clerks' expertise. Hence, the day before the verdict, and against procedure, the court moved to the asylum to meet the *smemorato* in person.[62]

Furthermore, the promotion of a new paradigm in crime prevention, which had become embedded in the emerging totalitarian regime, provided a fertile ground for a critical approach to fingerprinting. The unprecedented situation prepared the way for the first constructivist study of fingerprinting (Perrando and Pellegrini's survey), and provided judges with arguments to defend their logical inference, such as Vescovi's 'possible controversies'.[63]

On 5 June 1931, with the *smemorato* in prison, Giulia faced financial difficulties that ended with the loss of her house in Verona. In 1932, Mario Bruneri benefited from a general amnesty and was awarded his freedom. He managed to get a passport, and together with Giulia and the four children he left for Brazil, where Giulia's father was an important contractor. In Brazil, the supposed swindler lived an intellectual life, publishing philosophical papers in local reviews, mainly addressing the Italian myth of the wrongly accused. In Italy, public opinion remained divided, surviving the regime, the war and even the *smemorato*'s death in 1941. Popular publications, theatrical plays, radio drama and even movies channelled the story of Giulia and the *smemorato* through generations, until the idiom *smemorato di Collegno* gained its place in the vernacular.

With the advent of the republic, political and financial investment in scientific policing rose again and members of the professional groups involved in the trial hastened to provide a posthumous closure to the debate. Since 1946, publications flourished about the infallibility of fingerprinting, sometimes reserving a special place for the 'solution' of the *smemoratodi Collegno* affair in the fingerprinting Hall of Fame. In 1989, the head of the forensic scientific at the Turin questura 'successfully' repeated Sorrentino's testimony and, with the popularity of the 'CSI effect', this case is still considered one of the best demonstrations of the effectiveness of the scientific approach to crime.

Conclusion

This study reveals a different truth: in what is usually known as the golden age of scientific criminal identifications, five different courts dismissed the most advanced criminal identification technology as irrelevant. Such a result was made possible by the coexistence of four factors: a diffuse form of 'misoneism' among police administrators and officers; the magistrates' dogged rejection of fingerprinting as an absolute

neutral identification technique; the lack of interest of the new political regime in scientific policing; and the social status and the impeccable performance of Giulia Canella. Those factors together created a receptive audience for the first constructivist analysis of fingerprinting made in Italy so far, and created a debate that both in form and content anticipated the international debate on fingerprinting prompted by the production of DNA typing in criminal investigations.

Notes

1. For the history of the School, see M. S. Gibson (2002) *Born to Crime. Cesare Lombroso and the Origins of Biological Criminology* (Westport, CT: Praeger). First published in 1910, the *Bollettino della scuola di polizia scientifica e del Servizio di segnalamento* in 1918 became the *Bollettino della scuola di polizia scientifica e dei servizi tecnici annessi*, and in 1925 the *Bollettino di scuola superiore di polizia e dei servizi tecnici annessi* (herafter *Bolletino*). Publication ended in 1939.
2. General Administration of Prisons Memorandum Nr. 12985-4, 13 April 1912.
3. General Administration of Prisons Memorandum Nr. 53991, 4 May 1910.
4. Anon. (1926) 'Ex prigioniero che ricompare dopo 9 anni', *La Domenica del Corriere*, 28:13, p. 7.
5. Anon. (1927) 'Chi lo conosce?', *La Domenica del Corriere*, 29:6, p. 9.
6. U. Pavia (6 February 1927) 'L'uomo che smarrì se stesso', *La Stampa*.
7. U. Sorrentino (1946) *La scienza contro il crimine: manuale di polizia scientifica con numerosa casistica, illustrazioni e tavole fuori testo* (Roma: Edizioni Toso); Anon. (1928) *Bollettino*, pp. 16–17.
8. L. Rusticucci (1927) *L'impronta digitale nell'anagrafe civile e criminale* (Bologna: Cappelli), p. 196.
9. M. Pagani (2010) 'Fingerprinting at the Bar. Criminal Identification in Liberal and Fascist Italy', PhD thesis in Sociology, University of Exeter.
10. S. Ottolenghi (1901) 'L'estensione del "Bertillonage" e la lotta contro gli anarchici', *Rivista d'Italia*, 4:6, pp. 304–16.
11. E. R. Henry (1922) *Classification and Uses of Finger Prints*, 5th ed. (London: HMSO).
12. See Ottolenghi's communication to Alfredo De Marsico in Archivio Centrale dello Stato, Fondo Scuola Superiore di Polizia, B. 59, F. 685.
13. G. Parisi (1946) *Giulio e Giulia Canella nel fosco dramma giudiziario dello 'sconosciuto di Collegno'* (Verona: Società editrice M. Bettinelli), p. 72; L. Roscioni (2007) *Lo smemorato di Collegno. Storia italiana di un'identità contesa* (Torino: Einaudi), p. 7.
14. Rusticucci (1927) *L'impronta digitale*, p. 194.
15. Anon. (29 December 1927) *Il popolo d'Italia*; Anon. (17 March 1927) *Il regime fascista*.
16. Anon. (14–15 March 1927) *L'Osservatore Romano*.
17. G. Roverato (1984) 'La terza regione industriale' in S. Lanaro (ed.) *Storia d'Italia. Le regioni dall'unità a oggi. Il Veneto* (Torino: Einaudi).

18. F. Bruneri (1931) *La vita dell'uomo di Collegno narrata da suo fratello* (Venezia: Avaldo Grassi).
19. Parisi (1946) *Giulio e Giulia Canella*.
20. 'The writings produced by the pen of the patient of Collegno during the year spent in the asylum cannot be considered miserable and dull, both in form and substance.' V. Vescovi (1942) *Una causa celebre. Bruneri–Canella. Ricordi e curiosità* (Treviso: Longo & Zoppelli), p. 75.
21. Anon. (17 May 1927) *La Stampa*.
22. A. Coppola (1931) *Il caso Bruneri–Canella all'esame neuropsichiatrico. Studio psico-biografico e medico-legale sullo Sconosciuto di Collegno* (Siena: Stabilimento tipografico San Bernardino); see also S. Zago, G. Sartori and G. Scarlato (2004) 'Malingering and Retrograde Amnesia: The Historic Case of the Collegno Amnesic', *Cortex*, 40, pp. 519–32, and Roscioni (2007) *Lo smemorato di Collegno*, p. 116.
23. A. Coppola (1928) *La psichiatria italiana di fronte allo 'sconosciuto' di Collegno* (Siena: Stab. Arti grafiche S. Bernardino).
24. C. L. Musatti (1989) *Elementi di psicologia della testimonianza* (Padova: Liviana Editrice Spa), p. 253.
25. Corte Penale di Torino (1931) *Bruneri – sconosciuto di Collegno. Testo dell'ordinanza 23 dicembre 1927* (Verona: Stab. Grafico G. Scarabellin), p. 21.
26. *Ibid.*, pp. 27–8.
27. G. Perrando and R. Pellegrini (1929) *Osservazioni Medico-Legali circa la presunta identità dello 'Sconosciuto di Collegno' col tipografo 'Mario Bruneri'* (Padova: Tipografia del seminario), p. 84.
28. Vescovi (1942) *Una causa celebre*.
29. See, for instance, Anon. (1928) *Bollettino*, pp. 16–17.
30. A. Gilardi (2003) *Wanted! Storia, tecnica ed estetica della fotografia criminale, segnaletica e giudiziaria* (Milano: Bruno Mondadori), p. 77.
31. Corte Penale di Torino, *Bruneri – sconosciuto di Collegno*, p. 30.
32. *Ibid.*, p. 112.
33. *Ibid.*, p. 114.
34. *Ibid.*
35. L. Daston and P. Galison (2007) *Objectivity* (New York: Zone Books), pp. 309–61.
36. Perrando and Pellegrini (1929) *Osservazioni Medico-Legali*, p. 132.
37. *Ibid.*, p. 133.
38. *Ibid.*, p. 113.
39. A similar strategy was adopted in 1901 during a famous trial in England. See S. A. Cole (2001) *Suspect Identities. A History of Fingerprinting and Criminal Identification* (Cambridge, MA: Harvard University Press), p. 173.
40. Perrando and Pellegrini (1929) *Osservazioni Medico-Legali*, p. 113.
41. *Ibid.*, p. 90.
42. R. Annear (2003) *The Man Who Lost Himself. The Unbelievable Story of the Tichborne Claimant* (London: Robinson), p. 25; N. Z. Davis (1983) *The Return of Martin Guerre* (Cambridge, MA: Harvard University Press).
43. Corte Penale di Torino, *Bruneri – sconosciuto di Collegno*, p. 18.
44. *Ibid.*, p. 32.
45. *Ibid.*

46. Quotation from Coppola (1928) *La psichiatria italiana*, p. 26, and S. Ottolenghi (1910–32) *Trattato di polizia scientifica,* 2, *Identificazione psichica e biografica e investigazioni giudiziarie* (Milano: Società editrice libraria), p. 535.
47. Rusticucci (1927) *L'impronta digitale*, p. 204.
48. Reported by Ottolenghi in Rusticucci (1927) *L'impronta digitale*, p. 10.
49. S. Barbanti (1964) 'L'identificazione dattiloscopica, l'impronta digitale sulla carta d'identità e sue applicazioni', *Rivista di polizia*, 28, 164–68.
50. M. Pagani (2010) 'Crime, Race, and National Identity from Liberal to Fascist Italy', in M. Mazzotti (ed.) *Impure Cultures: Interfacing Science, Technology, and Humanities* (Bologna: CIS, Dipartimento di Filosofia, Università di Bologna), pp. 87–124.
51. Vescovi (1942) *Una causa celebre*, pp. 14–15.
52. Quoted in Anon. (1929) *Archivio di Psichiatria, Scienze Penali ed Antropologia Criminale per Servire allo Studio dell'Uomo Alienato e Delinquente*, 49, p. 509; see also M. Julini, P. Berruti, M. Celi and M. Centini (2004) *Indagine sullo smemorato di Collegno* (Torino: Ananke), p. 160.
53. Anon. (1929) *Giurisprudenza Italiana*, 1:2 (Torino: UTET), pp. 458–61.
54. Anon. (7, 8 and 11 November 1928) *L'Osservatore Romano*.
55. Anon. (1930) *Giurisprudenza Italiana*, 1:1 (Torino: UTET), p. 419.
56. Julini et al. (2004) *Indagine sullo smemorato di Collegno*, p. 172.
57. Vescovi (1942) *Una causa celebre*, p. 387. Here, Vescovi adopted an extended version of the Frye rule in promoting fingerprinting. In 1923, in a murder trial, the federal court of appeals for the District of Columbia Circuit established that in dealing with new techniques and scientific principles, judges should check that 'the thing from which the deduction is made must be sufficiently established to have gained general acceptance in the particular field in which it belongs'. See S. Jasanoff (1995) *Science at the Bar. Law, Science, and Technology in America* (Cambridge, MA: Harvard University Press), p. 61. Vescovi maintained that 'science entirely is in agreement in defending the validity of fingerprinting as a fully reliable method for the personal identification: in fact, this is the method adopted by all the most advanced nations'. Quoted in Anon. (1931) *Giurisprudenza Italiana*, 2:1, p. 407.
58. K. Alder (2004) *The Measure of All Things*, 3rd ed. (London: Abacus), p. 2.
59. D. Bloor (1991) *Knowledge and Social Imagery* (London: University of Chicago Press), p. 32.
60. Ottolenghi (1910–32) *Trattato di polizia scientifica*, p. 534.
61. D. Bloor (1991) *Knowledge and Social Imagery*, p. 143.
62. Anon. (27 December 1927) *La Stampa*.
63. On the emergence of a new criminological paradigm under fascism, see Pagani (2010) 'Crime, Race, and National Identity from Liberal to Fascist Italy'.

5

De-neutralizing Identification: *S. & Marper v. United Kingdom*, Biometric Databases, Uniqueness, Privacy and Human Rights

Simon A. Cole

Introduction

In constituting itself as a full-fledged topic of scholarly enquiry, the history of identification has often found it necessary to distinguish its subject matter from the far better studied topic of *identity*. The earliest historians of identification noted that the notion of identity was much discussed by a wide variety of disciplines (e.g. sociology, philosophy, psychology, history), but found little on the history of identification[1] until, that is, they found one another.[2] This, indeed, was one of the most exciting aspects of this emerging field: the by-passing of the familiar discussion of individual and collective *identity formation* for the long-overlooked and at least equally important topic of state- (and later corporate-) sponsored *identification practices*.

This distinction notwithstanding, identification and identity are not so easily separated. State- (and corporate-) sponsored identification practices inevitably feed into individual and collective identity formations. Identification practices, clearly, produce identifications *and* identities.[3] This blurring of boundaries between identification and identity is not always explicit; it may be in the state's (or corporation's) interest to rhetorically deny any connection between identification and identity, to portray identification as a 'neutral' act – neutral with regard to race, ethnicity, heredity and behavioural characteristics – that neither forms nor invades citizens' (or consumers') sacrosanct identities.

Perhaps the most successful such rhetorical denial surrounded the humble fingerprint, which over the past century became almost universally understood as a biometric marker capable of effecting *identification* without so much as even brushing up against individual or collective *identities*. While the achievement of this nearly universal understanding

has been explored elsewhere,[4] this chapter explores it from a new angle by positing its possible endpoint: a decision by the European Court of Human Rights in the case of *S. & Marper v. United Kingdom*, which is more commonly read as a decision about the permissible extent of DNA databases.[5] The chapter, and the case, suggest that the rhetorical separation of identification from identity may have been a historical anomaly and that a public sense of identification and identity as inextricably connected and overlapping may, historically, be the much more common state of affairs. It suggests that we may be returning to this state in the age of genetics, after a brief (but, at the time, seemingly 'natural') excursion to the opposite state for most of the twentieth century.

The development and rapid advancement of the technology of human DNA profiling since 1985 has generated concerns about surveillance, social control and medical privacy. In particular, the adoption of this technology by law enforcement agencies and the construction of increasingly large databases of DNA profiles have generated concerns. A debate has transpired over the last two decades or so about the proper scope of these databases. Should the databases be limited to violent offenders, to convicted offenders of all kinds, to those arrested by the police, or should every citizen be included? What about juveniles who fit into those categories? Utilitarian logic dictated that the larger the database the more useful it would be. Any limitation on database inclusiveness carried the potential of allowing some potentially preventable crimes to occur. But, on the other hand, individual rights discourse seemed to dictate some limits on the database. Surely, 'unconvicted' citizens[6] did not merit inclusion on the database. And, for those who put stock in the presumption of innocence, conviction, not mere arrest, would seem to be required to justify inclusion in a state-sponsored law enforcement DNA database.[7]

By 2008, it seemed clear that continued expansion of DNA databases was 'inevitable'.[8] More specifically, the world's DNA databases were tending towards what had become known as the 'arrestee database'. That is, the database would stop short of the 'universal' citizen database proposed by some enthusiasts, but an arrest alone would be sufficient grounds for suspicion and so warrant the invasion of privacy entailed by inclusion in the database. The arrestee database had been pioneered in the United Kingdom, the leader in the development and deployment of DNA profiling and databases. In the UK, the arrestee database had been justified by the *R v. B* case, which graphically illustrated the utilitarian crime-prevention logic behind the arrestee database.[9] The United States, meanwhile, while slower than the UK to shift toward

arrestee databases, was by then showing strong signs of momentum in that direction. By 2008, several US states and the federal government had passed legislation allowing for arrestee databases. The passage of Proposition 69 in 2004 in California, the largest American state, seemed particularly significant in signalling this trend.[10]

Numerous scholars, myself included, reasoned that most of the world's databases seemed likely to settle upon arrest as the criterion for inclusion.[11] There were good reasons to believe this. First, the relentless utilitarian logic of inclusiveness seemed that it would 'trump any other argument'.[12] Second, though some legal scholars believed that arrest was insufficient to warrant the increased privacy intrusion entailed by inclusion in a genetic database,[13] courts seemed unlikely to adopt such arguments. European and American courts had found the retention of genetic samples acceptable for convicts, and in many cases for arrestees as well.[14] In addition, it was becoming clear that even 'shed' DNA, cells left in the environment by ordinary citizens as they went about their daily lives, enjoyed no legal protection.[15] The *Marper* case, a lawsuit by two individuals, one a juvenile, who had been arrested but not convicted of crimes, demanding the expungement of their DNA profiles from the UK's National DNA Database (NDNAD), had failed in all British courts, including the House of Lords. Third, the arguments of privacy advocates, which tended to invoke 'genetic exceptionalism', the claim that genetic information was uniquely dangerous and therefore should not be permitted in government databases without extraordinary justification,[16] seemed not to command sufficient resonance with the public to counter utilitarian crime-prevention arguments.

If there seemed little chance of halting database growth, why then was it expected that database growth would stop at arrestees, rather than growing to encompass the entire citizenry? One reason was that 'universal databases', as they were called, would be so much larger than arrestee databases that significant issues of cost, technological capacity and perhaps increased adventitious matches would be expected to present themselves. However, perhaps more importantly, the notion of a universal database was the hobbyhorse of pundits and law professors, not of legislators. Pundits carried the utilitarian crime prevention logic to its extreme, while law professors touted the supposed egalitarian and anti-discriminatory effects of including everyone in the database.[17] Legislators, however, evinced little enthusiasm for proposing legislation to mandate the inclusion of their own and their constituents' genetic information in state-sponsored databases. Rather, as I argued at the time, legislation to expand databases was politically popular only when

founded on 'othering' – that is, when the public perceived the measures as being applied to criminals other than themselves.[18] One might have thought that this logic would falter at least a little when it came to arrestees because while voters might assume they and their loved ones would never be convicted of crimes, they might not assume they would never be arrested. But apparently this was not the case.[19]

Yet another reason to think that the world would 'settle' on arrestee databases was historical. To understand this, it necessary to take a brief excursion into the history of biometric databases.

The history of biometric databases

Although identification, biometric and otherwise, has a long history,[20] law enforcement biometric *databases* were first developed in the nineteenth century. Although law enforcement agencies collected photographs in the mid-nineteenth century, it is not clear that these should be called 'databases' since they had no way of ordering the data and thus offered no means of retrieving data other than sorting through the entire collection. The Bertillon system, developed in France in the 1880s, was the first true criminal identification database.[21] Records were indexed according to a series of 11 anthropometric measurements, taken with impressive precision using a set of custom-built instruments. The anthropometric system was soon joined by a rival system, known as 'dactyloscopy', based on a different marker, the pattern of ridges on the tips of the fingers. Both these systems enabled state officials with reasonable accuracy to retrieve the records of individuals whose data was present in the database, even with relatively large databases, and even when those individuals used aliases.

These systems ushered in the notion that the bounded body could be used to effect bureaucratic identification. Crucial to this notion was the belief that, with certain biometric markers, a one-to-one correspondence could be effected between a body and a set of bureaucratic records. This belief relied on the twin assumptions: that a single body would consistently correspond with a single set of records; and that no other body would correspond with that set of records. Sets of 11 anthropometric measurements, sets of 10 fingerprint patterns, and, later, sets of 13 (or some other number) genetic loci were thought to have these properties – or at least to come close enough to having these properties for government work.

The question arises as to whether these systems used data that was viewed as sensitive, in the way that genetic information today is viewed

as sensitive. The sensitivity of anthropometric information is relatively well understood, given efforts at the time to use anthropometric information, such as, for example, the ratio of head length to head width, to identify 'born criminals' or to delineate racial categories.[22]

The sensitivity of fingerprint information is somewhat less obvious, given the widespread belief that fingerprint patterns are 'neutral', with no content about race, ethnicity or behavioural characteristics. As Rabinow put it, fingerprints 'revealed nothing about individual character or group affiliation'.[23] The supposed neutrality of fingerprint patterns, however, turns out to be a historical achievement, rather than a natural fact.[24] Turn-of-the-century anthropologists, statisticians, zoologists and medical researchers did, in fact, view fingerprint patterns as information that was likely to provide clues to race, ethnicity, inheritance and behavioural characteristics. French doctors recorded fingerprint patterns in prisons and asylums, and took prints from epileptics. Anthropologists recorded the fingerprint patterns of various tribes and ethnic groups around the world. Zoologists recorded the fingerprint patterns of various primate species. Francis Galton examined the patterns of a set of racial groups and concluded that he could find no statistically significant difference, other than slightly fewer arches among Jews. However, this disappointing conclusion, famously characterized by Rabinow as 'Galton's regret', was not shared by either his students or his colleagues.[25] Eventually two rival schools of thought emerged. European researchers held that the most complex fingerprint pattern (the whorl) was the most highly evolved. American researchers, on the other hand, argued that the least complex pattern (the arch) was the most highly evolved because it was *least* functional, and thus signalled the greatest evolutionary distance from the functional tree limb-swinging needs of our primate ancestors.[26]

While such theories seem amusing today, the notion that general tendencies towards certain fingerprint patterns are genetically influenced and that the frequency of different pattern types is different among different racial and ethnic groups (whatever is meant by those terms), seems borne out by current research. Fingerprint patterns correlate with (socially defined) race and ethnicity and perhaps even with behaviour; however the correlations are quite weak. It is just such correlations that are behind, for example, the recent claim to have 'discovered' that Leonardo da Vinci's mother was 'an Arab'.[27]

Fingerprint patterns, then, are not different from anthropometric measurements or genetic alleles by being 'neutral', empty signifiers devoid of any information that might be correlated with race, ethnicity

or behaviour. Anthropometric correlations, however, are weak as well, and so, it appears, are those of the genetic markers used in criminal databases.[28] What *is* different about fingerprint patterns, however, is the widespread public perception that they *are* 'empty signifiers'[29] – that they don't contain information that might be considered 'dangerous' or 'privacy-invading' in the sense that genetic markers are considered today. However, this perceived neutrality is not a natural fact but a historical achievement; it is the result of the historical marginalization of those researchers interested in mining predictive information from fingerprint patterns and the takeover of the field by law enforcement 'identification clerks', whose interest was solely in linking suspect bodies to criminal records. In short, fingerprint database managers successfully neutralized the fingerprint, construed it as an empty signifier, and thus managed to create a notion of 'identification' as a seemingly pure act distinct from the notion of 'identity'.[30] This, it would seem, was something new, given that identity and identification have historically been understood to be inextricably linked.[31]

It was around this time, in the first half of the twentieth century, that most nations settled on what we might call the 'arrestee compromise' for fingerprint databases. It should be noted that legal challenges to the archiving of fingerprints have uniformly failed. For example, the claim that fingerprinting violated the Fifth Amendment to the US Constitution's ban on self-incrimination was dismissed with Wigmore's pithy aphorism that fingerprints 'were not testimony about the body, but the body itself'.[32] At the same time, proposals for 'universal', or citizen-wide, databases were generally rejected. Three bills for such databases were defeated in the United States between 1935 and 1943. And, proposals for a universal database provoked staunch resistance in Argentina.[33] Most likely, such proposals foundered for the same reason that proposals for universal DNA databases enjoy little political traction today: while there is significant political capital to be gained by proposals to archive the biometric data of criminal 'others', there is little to be gained by proposals to put voters' information into state-sponsored databases. Thus, virtually all countries adopted the practice that arrest was sufficient to warrant the permanent archiving of fingerprint patterns in law enforcement databases. This widespread, permanent retention of fingerprint data was widely considered unremarkable and to invoke little or no privacy violation, in part, I would argue, because fingerprint patterns were widely perceived as being devoid of any information that could be predictive of race, ethnicity, behaviour or health. But, barring arrest, most citizens (with some notable exceptions, such

as public servants, teachers, members of the armed forces, and so on) retained the privilege of remaining outside the database. The result was a two-tier system with some individuals information permanently stored in the database and others remaining outside it.

Struggles over DNA databases

This was the situation when a new, extremely powerful biometric marker, the DNA profile, was developed in the mid-1980s. Law enforcement agencies quickly began to use the marker for forensic investigation, and soon thereafter began to amass databases of genetic profiles. That these markers had some potential correlations with sensitive attributes such as race was apprehended almost immediately; an early article by the inventor of the technique, Alec Jeffreys, predicted the development of 'reverse photofits' from crime scene DNA profiles – what today would be 'phenotypic profiling'.[34]

It is perhaps difficult today to reconstruct the mindset of the early 1990s, in which it still seemed possible that DNA databases might remain restricted to, say, violent felons convicted of homicide or sex crimes. Of course, that was not the case; through 'function creep', DNA databases expanded to include, in many cases, all convicted felons, and, further, in the case of many jurisdictions, those arrested but not convicted of crimes.[35] A few jurisdictions, including the UK, went even further and adhered to the principle that no genetic profile should be discarded, resulting in the seemingly curious policy that even *victims*' profiles were retained. Thus ensued a rather heated debate over the proper scope of DNA databases: How broad or narrow should the criteria of inclusion be?[36]

Two obvious potential compromises emerged from this debate. The first, which we might call the 'arrestee compromise', has already been discussed above. Databases limited to those arrested for, but not convicted of crimes, placed legislators in the politically comfortable position of maximizing the perception that they were proactive in fighting crime while defusing the potential charge that they were bringing about a surveillance state.

The second compromise might be called 'the sample destruction compromise'. The most alarming scenarios raised by privacy advocates, concerning the leakage of sensitive health information (so-called 'future diaries' that would allow predictions of disease susceptibility) from law enforcement databases, required access to genetic *samples* – that is, the actual cells drawn from the body through a blood sample or cheek

swab. Law enforcement databases, however, relied on *profiles* of a very small (for example, 13 in the US) number of genetic locations. Thus, a US 'DNA profile' is, in fact simply a string of 26 numbers: two genetic profiles (one maternally inherited and one paternally inherited) at each of the 13 locations. It is this string of numbers, not the sample, that is stored in the database. Database advocates sought to portray these strings of numbers as innocuous in much the way fingerprint patterns had become construed as neutral. It was argued that the locations used in law enforcement profiling were 'junk DNA', having no biological function and thus were essentially 'empty signifiers'.[37] These claims were found to be slightly misleading: some forms of 'junk DNA' turned out to function, and even the loci used by law enforcement seemed to correlate with, even if they did not cause, disease propensity. However, the correlations were weak, and it seemed likely that a potential genetic discriminator would have an extremely difficult time deriving useful predictive information from the law enforcement profiles alone.[38] Privacy advocates, however, invoked 'genetic exceptionalism' to insist that DNA profiles were 'nothing like' fingerprint patterns.[39]

An obvious solution to this standoff would have been for the state to agree to destroy the samples after deriving the profiles.[40] While some advocated this solution,[41] most database managers insisted that sample needed to be retained as a hedge against technological innovation and perhaps also in order to conduct 'confirmation analyses' in cases of ambiguous or partial 'matches'.[42] It was argued that the settlement upon the current set of loci was not stable and that future technology was likely to develop a profile with a more desirable set of qualities. With samples destroyed, a change in the technological standard would require the resampling of a large number of individuals.

The case of *S. & Marper v. United Kingdom*

It was in this context that two individuals, a juvenile under the pseudonym 'S.' and Michael Marper, filed suit against the British government for violation of their privacy through the permanent retention of their genetic profiles in the NDNAD. S. had been arrested in 2001 at age 11 for robbery and was acquitted of the crime. Marper had been arrested the same year for harassment, but the prosecution had been discontinued. Both requested that their profiles be expunged from the NDNAD, but under official policy both profiles would be retained permanently. Their consolidated suit demanding expungement was rejected by the Administrative Court in 2002, and this decision was upheld by the

Court of Appeal. They then appealed to the House of Lords, which, in 2004, dismissed the appeal.

The Lords relied heavily on the utilitarian logic dictated by the *R. v. B.* case – that crimes might be solved by searching crime scene profiles against even those acquitted of the crimes for which they had been accused. Moreover, the Lords were sceptical of the appellants' claim that retention of their profiles violated their privacy. The Lords felt the inclusion in the databases was not a violation of privacy and that, even if it was, the violation was minimal and justified by the state's interest in public safety. The Lords also deemed 'not relevant' the sorts of future scenarios of potential misuse touted by privacy advocates.[43]

S. and Marper appealed their case to the European Court of Human Rights (ECoHR), which has become a sort of 'court of last resort' for individual rights cases emanating from European countries. And, indeed, it is a court of last resort in that its decisions are not appealable to any higher court and its decisions are binding. Signatory nations must adhere to the Court's decisions or abrogate the treaty. Human rights is at once an enormously powerful discourse and an unruly, contested and, indeed, reflexive legal concept.[44] However, in this case human rights law succeeded in halting the utilitarian logic of inexorable expansion where conventional privacy law had failed.

It is worth repeating that at this time the momentum behind the trend towards arrestee databases seemed, to many scholars, irresistible, and that there might be no 'road back in time'.[45] However, in 2008 the Court handed down a decision ruling that British retention policies for DNA profiles, samples and fingerprint records violated Article 8 of the Convention, which states 'everyone has the right to respect for his private … life' and 'there shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society … for the prevention of disorder or crime'.[46] Therefore, *S. & Marper* forced the British government to change its policy on retaining biometric information in its criminal identification databases. The UK arrestee database, the first and largest in the world, was in some sense dead.

The structure of the *Marper* opinion was as follows: the Court first asked whether the storage of DNA samples, DNA profiles and fingerprints constituted 'an interference with private life'. The answer to this question was yes. The Court then asked whether there was sufficient justification for the interference. The answer to this question was no, or at least there was not enough justification to support 'the blanket and indiscriminate nature of the powers of retention of the fingerprints, cellular samples

and DNA profiles of persons suspected but not convicted of offences'. This, the Court concluded, 'fails to strike a fair balance between the competing public and private interests. … Accordingly,' it continued, 'the retention at issue constitutes a disproportionate interference with the applicants' right to respect for private life and cannot be regarded as necessary in a democratic society.'[47]

Analysis of *S. & Marper*

An obvious question is: how was the ECoHR able to reach this conclusion when so many other courts had visited the same issues and were not persuaded by the privacy issues that it found so compelling? To be sure, the ECoHR is a different type of court, applying a different legal regime, in a different political context. But, even so, it seems worthwhile to enquire how it was that information that seemed so innocuous to so many other courts came to seem so invasive to the ECoHR.

Here it is important to note that there were two obvious moves that the Court did *not* make. In eschewing these moves, the Court defied both the predictions of some scholars and the general judicial preference for narrow decisions. Both these potential moves available to the Court would have involved drawing distinctions between the three types of biometric information that were at issue in the case: DNA samples, DNA profiles and fingerprints. Although the court acknowledged that there were significant differences between these three types of information, it declined to view those differences as dispositive:

> The Court acknowledges that the level of interference with the applicants' right to private life may be different for each of the three different categories of personal data retained. The retention of cellular samples is particularly intrusive given the wealth of genetic and health information contained therein. However, such an indiscriminate and open-ended retention regime as the one in issue calls for careful scrutiny regardless of these differences.[48]

The first obvious move would have been to invoke genetic exceptionalism and distinguish between genetic information and fingerprints. Significantly, it should be noted that this is a rhetorical move frequently (perhaps in fact always) invoked by privacy *advocates*[49] – in short, precisely those organizations supporting the plaintiffs, with whom the court ultimately sided. In other words, the Court, though siding with the plaintiffs, declined to employ what the plaintiffs' own supporters

apparently viewed as their strongest rhetorical argument. Instead, the Court concluded that the information contained in fingerprints, no less than genetic information, constituted 'an interference with private life':

> It is accepted in this regard that, because of the information they contain, the retention of cellular samples and DNA profiles has a more important impact on private life than the retention of fingerprints. However, the Court, like Baroness Hale (see paragraph 25 above), considers that, while it may be necessary to distinguish between the taking, use and storage of fingerprints, on the one hand, and samples and profiles, on the other, in determining the question of justification, the retention of fingerprints constitutes an interference with the right to respect for private life.[50]

The second obvious move would have been to invoke what I described above as the 'sample destruction compromise'. One would have thought that the idea of compromising between the parties by ordering the destruction of samples, which contained the individuals' full complement of genetic information, while allowing the retention of profiles would have been appealing to a court. This is especially the case given the frequent use by database proponents of the rhetorical argument that DNA profiles consist of 'junk DNA', which is essentially devoid of any information that would constitute a serious invasion of privacy.[51] This would have allowed the ECoHR to claim to be protecting public safety and privacy simultaneously. Instead, although the Court acknowledged that DNA profiles 'contain a more limited amount of personal information extracted from cellular samples in a coded form', it insisted, 'nonetheless, that the profiles contain substantial amounts of unique personal data'.[52]

If the Court did not draw upon the rhetorical tropes most commonly advocated by interested parties and scholars who comment on these areas, how then did it carve out its own path towards finding the indiscriminate retention of biometric information a privacy invasion? A close reading of the opinion suggests that two recent developments were crucial in turning the Court against UK databases practices: familial searching and phenotypic profiling.

Familial searching, also sometimes known as low-stringency searching or genetic proximity testing, is a technique typically employed when a search of a crime scene sample against a database fails to yield any 'hits', that is, it fails to yield any profiles in the database that are consistent at all tested loci with the crime scene sample.[53] At this point,

some law enforcement agencies have concluded that it might be useful to enquire whether there are any profiles in that database that are consistent with the crime scene samples at *almost all* of the tested loci. Such a profile might belong to a close blood relative of the donor of the crime scene sample. If such a profile were located, a conventional police investigation might be launched into the close blood relatives of the donor of that profile. The technique has been used in a relatively small number of cases with mixed success. Not surprisingly, the UK was the most aggressive user of familial searching.

Bieber, Lazer and Brenner, and Greely et al., were among the earliest scholars to anticipate that familial searching would introduce ethical issues that would profoundly change the DNA database inclusiveness debate. They noted that the practice of familial searching, if permitted, would constitute the *de facto* inclusion of each individual's close blood relatives in the database. Thus, familial searching greatly expanded the inclusiveness of the database. Bieber and Lazer noted that this aspect of familial searching was troubling and that racial dimensions were troubling as well.[54] Greely et al. argued that the privacy invasion of close blood relatives – what they called 'Family Ties' – was not compelling enough to argue against familial searching. However, given that the racial composition of the US database was already racially skewed, they estimated that the existence of familial searching placed African-Americans *de facto* in the national database at four times the rate of whites. On this basis, they concluded that familial searching – at least in the US context – was ethically unacceptable.[55]

As noted above, phenotypic profiling is the practice of trying to make phenotypic predictions about the donor of an unidentified crime scene sample. The technique has been used in a handful of cases with mixed success. It has been extensively criticized, both on privacy grounds and for the simplistic assumptions about phenotypic characteristics such as 'race' upon which it inevitably rests.[56]

It is noteworthy that the Court's concerns about familial searching and phenotypic profiling denote privacy invasions that are not personal but relational. In contrast to the person as a bounded body, with self-contained secrets about its own health and 'future diary', as imagined in classical privacy discourse,[57] the ECoHR rather seemed to conceive of the person as a far more connected being: a notion of the individual as a web of relationships, rather than an isolated body. Privacy is violated by knowing those relationships – kinships, in the case of familial searching; racial or ethnic, in the case of phenotypic profiling – rather than by knowing intimate details about the individual. In this sense,

the decision seems to bear out Goold's pessimism about the ability of arguments that frame privacy in terms of self-construction of identity to resist 'the pressures of security'.[58] Instead, the decision seems to suggest that a broader notion of privacy framed around '*familial* or *relational privacy*' has more purchase in resisting utilitarian arguments framed around crime control.[59] Significantly, the ECoHR found familial searching to be a privacy violation in and of itself, in marked contrast to American scholars who (perhaps because of the greater salience of race in America than in Europe) were only able to find familial searching a privacy violation as a form of race discrimination. Familial searching and phenotypic profiling thus break down the claimed separation between *identity* and *identification*.[60]

The neutrality of biometrics

When considered in light of the history of fingerprint identification, the *Marper* decision can be read as a predictable consequence of genetic database proponents having overplayed their hand and having failed to heed the lessons of history. The history of fingerprinting illustrates the importance of treating a biomarker, which is being considered for widespread public use, as a neutral identifier. Genetic database proponents certainly made significant efforts in that direction, most notably by characterizing the loci used in databanking as 'junk DNA'. However rhetorically resonant that term, such arguments always relied upon convincing the public, somewhat counter-intuitively, to believe simultaneously that complete gene sequences were 'future diaries' and that the database loci were 'junk'.

Moreover, despite the frequent invocations of the notion of 'junk DNA', it may be argued that the efforts to portray genetic information as empty were always somewhat half-hearted. One can discern, in the early enthusiastic efforts to develop not only familial searching and phenotypic profiling, but also behavioural genetic explanations of criminal behaviour,[61] an enthusiasm for the power of genetics, which belied claims about the neutrality of databanked information. Simply put, proponents were just too tempted by the prospect of linking genetic *identification* into the larger discourse of genetic *identity*, in which genetics serve as potential explanation – and cure – for virtually all behaviour, to adhere to the rhetoric that databanked genetic information was *just* information. Proponents of forensic DNA profiling were too eager to associate databanking with projects such as familial searching and phenotypic profiling, which, in retrospect, perhaps should have been viewed as

dangerous to the overall surveillance project – dangerous because they threatened to undermine the claims of neutrality that would be crucial for public acceptance of large criminal genetic databases.

In short, DNA proponents *failed* to sever identification from identity as effectively as their forebears did with fingerprints. For this, they paid the price of the *Marper* decision, in which the court rejected the notion that even DNA *profiles* constituted neutral identifiers:

> While the information contained in the profiles may be considered objective and irrefutable in the sense submitted by the Government, their processing through automated means allows the authorities to go well beyond neutral identification.[62]

The unintended consequences of *Marper*

And yet, the consequences of *Marper* were not felt solely by proponents of DNA databasing. Astonishingly, DNA proponents not only brought down the UK's NDNAD, they brought down the nearly century-old fingerprint database as well. For the *Marper* decision, as noted above, declined to draw a bright-line distinction between genetic and fingerprint identification. The decision, therefore, seemed to hold that the permanent retention of fingerprints as a consequence of arrest must also be justified as a proportionate response to the threat of crime. Thus, the *Marper* decision seems to have undermined the long-settled principle that the retention of fingerprints from arrestees is completely harmless from a privacy standpoint.[63] The practical consequences of this holding have been little noticed and remain unclear.

Even more broadly, of course, the *Marper* decision may be seen as healing the rupture between *identification* and *identity* that had become inherent in the discourse on scientific policing in the twentieth century.[64] Indeed, it might be argued that, with genetics, a more powerful biometric technology has only rendered more visible what has *always* been true – but more *weakly* so – about *all* biometric identifiers: that identification and identity are inseparable. The purported identification of Leonardo da Vinci's mother as an Arab was, after all, in a weak sense, both familial searching and phenotypic profiling using fingerprints not genetic markers, but law enforcement does not currently seem to view fingerprinting as a promising technology through which to pursue these goals.

What are we to make of the Court's unexpected treatment of fingerprints? On the one hand, the Court repeated the sorts of hyperbolic

adjectives that have been heard about fingerprints for over a century: 'neutral', 'objective', 'irrefutable', 'unique'.[65] Recent scholarship emanating not from privacy debates but from legal debates has shown the fingerprint identification is neither 'objective'[66] nor 'irrefutable'.[67] More interesting, for our purposes, however, is the Court's denial of the long-standing notion of fingerprints' alleged neutrality. The Court's language on the point is maddeningly elusive: within the same paragraph it stated that the claim that fingerprints are 'neutral' is 'true' and yet also that 'retention of them … cannot be regarded as neutral'. Leaving its self-contradiction aside, however, the significant thing seems to be that the Court, in the final analysis, denied the neutrality of the information contained in fingerprints. The reasons behind this denial were vague: 'fingerprints objectively contain unique information about the individual concerned allowing his or her identification with precision in a wide range of circumstances'.[68] This claim of uniqueness is overstated; in the forensic context, the vaunted 'uniqueness' of human friction ridge skin has been shown to be philosophically meaningless, a Wittgensteinian language game amounting to little more than a discourse over how one defines the term 'unique'.[69] In both forensic and archival contexts, the issue is not really uniqueness, but rather the degree of precision with which the practice of identification can be effected (as the Court, arguably, apprehended). In addition, it should be noted that, as far as diagnostic uses are concerned, whatever potential uses inhere in biometric identifiers they are generated by analysing similarities and differences between individuals rather than their essential 'uniqueness'. In isolation even a gene sequence is not a 'future diary', but rather a 'diary' that can only be 'read' through knowledge of other individuals. It is only through probabilistic conclusions derived from knowledge about *other individuals* (with a few determinist exceptions) that an isolated individual's genetic markers appear to ordain a particular health or behavioural outcome or racial or ethnic ancestry. In forensic, archival and diagnostic applications of biometrics, *uniqueness* counts for little; it is the similarities and differences between individuals that matter.

The reasoning of the ECoHR seemed to finally erase the temporarily drawn distinction between 'identity' and 'identification', which had sustained fingerprint databases for decades. As the Court saw it, the act of 'identification' in and of itself invoked identity and thus invaded privacy, hence it was a violation of human rights. This seemed to be true regardless of the extent to which fingerprint patterns correlated with hereditary, racial, ethnic or behavioural traits. Thus, the *Marper* judgment may be viewed as having done more than merely limit the

seemingly inexorable expansion of genetic databases. It may also be viewed as having put an endpoint to the fleeting and historically brief period in which it was possible to think of 'identification' as a 'neutral' practice, which could be treated as entirely unrelated to 'identity'. This separation of 'identity' and 'identification' may be viewed as the fleeting rhetorical achievement of the police identification clerks who won control of fingerprinting, temporarily banishing biologists and statisticians to the margins of identification practice. Their achievement, however, was short-lived. With the development a new biometric marker, the gene, which differed from the fingerprint not in kind by having correlations with perceived racial, ethnic and behavioural traits, but merely in degree by having more powerful correlations, biologists and statisticians were brought back into the field. Promoters of genetic identification proved unable to resist invoking the supposed power of genetics to hype the new technology and practices, such as familial searching and phenotypic profiling, which made the non-neutrality of biometrics manifest once again. Law enforcement may view this as a squandering of the hard-won reputation for 'neutrality' that made biometric identification socially acceptable. Civil libertarians may view this as welcome revelation of the non-neutrality of all biometric identification. Those, like me, who are troubled by biological determinism may still view the victory as somewhat pyrrhic in that it perpetuates, rather than challenges, the implicit assumption that ancestry and destiny are written in the body. But, no matter how this landmark case is viewed, I might hazard that future historians of identification may find it will be some time before we are again able to separate 'identity' from the practice of identification.

Acknowledgements

Some of the material in this paper was presented at two IdentiNet workshops: *The Documentation of Individual Identity: Historical, Comparative & Transnational Perspectives since 1500*, St Antony's College, University of Oxford, 26 September 2008; and *Identifying the Person: Past, Present, and Future*, St Antony's College, University of Oxford, 26 September 2009. I am grateful to the participants and organizers of IdentiNet and to the Leverhulme Trust for its support of the project. A version of this paper was also presented at *Human Rights & the New Sciences: A Symposium*, Human Rights Program/Department of Anthropology, University of Chicago, 14 May 2010, and I grateful to Noa Vaisman for organizing the symposium and to all the participants. I am also grateful to Barbara

Prainsack and Noa Vaisman for comments on a draft of this paper. This material is partially based upon work supported by the National Science Foundation under grant No. SES-0115305. Any opinions, findings and conclusions or recommendations expressed in this material are those of the author and do not necessarily reflect the views of the National Science Foundation.

Notes

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6
The Biometric Fetish

Emilio Mordini and Andrew P. Rebera

Introduction

According to a famous, and probably apocryphal, anecdote, Michael Faraday, who first formulated the laws of electromagnetic induction, so paving the way for electric motors and dynamos, was once explaining his discovery to the Prime Minister, W.E. Gladstone. When Gladstone, a bit bored, asked 'But after all what use is it?' Faraday replied, 'Well sir, there is every probability you will be able to tax it.'

Technology often offers unexpected opportunities to governments. When in the late 1960s the first biometric devices appeared,[1] these were seen as a science fiction technology of limited application. No one could then imagine that they would become one of the most significant technologies of the first decade of the new millennium. Since 9/11 many governments have claimed that biometrics represent a dramatic breakthrough in securing people and their assets. Yet there has been very little evidence that biometrics-based security measures have prevented any major crime or act of terrorism – while biometric devices have been increasingly used for *other* purposes, such as border control, electronic identification, e-commerce, e-banking and e-health. This has led civil liberties and privacy advocates to argue that biometrics are integral to the surveillance apparatus with which governments aim to control their citizens, rather than to the prevention of terrorism.

Now is perhaps the moment for a calm evaluation of biometrics, their security applications and their future as an identification technology. This chapter aims to examine the conceptual framework underlying the employment of biometric systems of identification. Our intention is to map the conceptual terrain in which the biometric programme is situated; however, we will conclude with a very brief discussion of

the implications of this conceptual framework for the application of biometric technologies in the area of national defence and security.

What are biometrics?

Biometric devices belong to the wider category of Automatic Identification and Data Capture (AIDC) technologies. These include a vast array of technologies for 'tagging' and tracking vehicles, items and individuals.[2] AIDC technologies were pioneered by military logistics planners, though they have gained acceptance and broad adoption for civil purposes. In the following subsections we briefly discuss some conceptions of identity, and relate them to the functioning of biometric identification technologies.

Identity and identification technology

Although identification is generally thought of in terms of ascertaining the identity of an item, *identity* and *identification* are not quite two sides of the same coin. The distinction between *identity* and *identification* is the distinction between *who one is* and *how* (or *in virtue of what*) *one may be recognized*. For to be recognized is not necessarily to be recognized for who one most essentially *is*, but can merely involve categorization.

Philosophers distinguish *qualitative* and *numerical* identity. To say that A and B are *numerically identical* is to say that A and B are the very same object. 'A' and 'B' are thus names for the same object – the object is named twice but should be counted once. To say that A and B are *qualitatively identical* is to say that they are exactly similar in some respect. Two cars, fresh off the production line, may be qualitatively identical in the sense of being precisely the same colour, weight, shape and so on; but they are still *two* cars: they are qualitatively identical (in some respects), but nonetheless numerically distinct.

The concepts of numerical and qualitative identity interact in various interesting ways. Diachronic identity (identity over time) and the possibility of change imply that an entity may be numerically identical with itself at different times, and yet qualitatively non-identical. For example, we all had properties during childhood that we do not have now (say, the property of being under five feet tall) – that is, we have changed. Yet we are, it would seem, the same beings as before: qualitatively we are different, numerically we are the same.[3] On the other hand, the issues here are complex and controversial, as numerical identity *could* be considered as a special instance of qualitative identity.[4] This is ultimately the logic followed by biometrics. Biometric systems

seek to identify individuals in terms of certain qualities, and in this way draw identity and identification closer together. Ideally a biometric system identifies an individual in terms of a quality that they and nobody else has. We may think of this in terms of sets and classification. Individuals may be classified according to any of the sets to which they belong. But absolute identification refers to a set to which only that particular individual belongs. In order to find this set, one can follow two different strategies. Either: (a) one crosses off more and more properties (classifications), tapering down until only one individual is isolated; or (b) one searches directly for a property attributable only to only one individual. In principle such a property should be 100% sensitive (i.e., it can always be detected) and 100% specific (i.e., no other individual has it). Most AIDC and 'first generation' biometric technologies adopt the latter strategy, while 'next generation' biometrics (e.g., weak biometrics, soft biometrics, multi-biometrics, which use facial geometry, voice recognition or behavioural characteristics) increasingly rely on the former.

Traditional identification technologies make use of 'artificial' (as opposed to 'natural') properties. Artificial properties are tokens and tags added to an item in order to uniquely distinguish it for the purposes of identification (e.g., tattoos, physical mutilations, hallmarks, etc.). Tattoos and the like are (more or less) permanent. Non-permanent, or at least easily concealable, tags are more manageable. These can be either physical objects (e.g., a ring, a seal, a letter, etc.) or mental contents (e.g., passwords). Notice however that such tags convey information beyond that which is required for identification.

Biometrics are the sole AIDC technology based on 'natural' properties. Natural properties of non-living objects tend to be too non-specific to ensure reliable numerical identification.[5] However, natural properties of living beings can be highly specific and, consequently, good candidates for effective identifiers. Unfortunately natural properties of living beings tend also to be highly mutable and are, hence, difficult to reliably detect. Biometric systems are designed to overcome this problem.

What do biometric operations consist in?

The first operation that any biometric system should perform is to capture one or more 'biometric samples', of the subject.[6] Sensors receive physical input signals derived from, for example, fingerprint ridges, facial geometry, hand-vein geometry, iris images, etc. Biometric attributes used as standard markers for numerical identification (e.g., fingerprint, iris, hand veins, etc.) are called 'strong biometrics'. Yet biometric devices can

also be used to measure properties that are sensitive (i.e., reliably detectable) only over a limited period of time (so-called 'weak biometrics' such as facial features, voice and behavioural biometrics) or which are only a little sensitive, ('soft biometrics' such as gait, height or eye colour). Finally, biometrics can also be used for basic qualitative identification, for example, for profiling persons by ascribing them to wider sets of individuals according to behaviour, skin colour, body shape, and so on.

The second important component of any biometric system is the module for the creation of templates. The creation of templates proceeds in one of two ways. Either a series of analogue signals is combined, to create a kind of compound signal, and then this compound signal is digitalized; or, the series of images are digitalized individually and the results combined. In either case, some effort is made to cancel out the contextual peculiarities (e.g., lighting conditions) of any single signal. Digitalization occurs at either sensor level or later on. The analogue-to-digital conversion is the distinctive feature of contemporary biometrics. In the past, images of a biometric sample were captured in order to allow a human expert to judge whether the image (e.g., a fingerprint) matched another sample. Digital biometrics convert images (or sounds, odours or other signals captured by the sensor) to a discrete digital representation. The digital output can be encoded in various ways. Usually it is a binary number proportional to the input, but it can be also encoded in other ways. Digitalization is crucial for two reasons. Firstly, it is essential for automating the recognition process. Secondly, it improves the range of the system by enormously increasing the capacity for data storage, retrieval and processing.

Digital representations are then stored for future reference (e.g., in a central database or on a card). When the subject is screened in the future, the system performs the same operations and produces a new digital representation that will be matched with the stored template. Matching is expected to be close, but not exact, and is referred to as 'identification' when it is relative to a database (that is, one out of many) or 'verification' when it is relative to one specific template (that is, one to one). The first case confirms that the person screened belongs to the database, while the second case confirms that the person screened is the same as the person whose data are in the card.[7]

Biometric identification

Biometrics technologies base their identifications upon characteristics derived directly from the physical presence of an individual. It is usually

alleged that in this way they rely not upon something that one *has*, nor that one *knows*, but upon something that one *is*.[8] Indeed advocates of biometrics hold this to be its primary advantage over traditional methods of authentication (e.g., documentary proof of identity, or passwords). The biometric attributes used for identification are, in this view, at least partly constitutive of who we are. In this way, then, biometrics draws identity and identification closer towards one another.

In the following section we will examine the relationship between the individual and the biometric template given up to the system upon enrolment. One very attractive approach is to consider the relation of the template to the individual as one of *synecdoche* that is of the part representing the whole. Such an approach is endorsed by, for example, Joseph Pugliese who argues that 'biometric templates must be viewed as [...] synecdoches of the legal category of the subject'.[9] This is the extension of a more basic synecdoche implicit in the biometric project as a whole, namely, the conceptualization of the body as a set of biometric parameters of which the template is a subset. We will contend that the casting of the template–individual relation as one of synecdoche is possible only against a conceptual framework that turns the body into a *fetish object*. This fetishism involves both a false abstraction and a false projection. Having established this dynamic, it becomes clear that the use of biometric techniques in the field of security is at best an extension of what has gone before and not, as some have claimed, the first rays of a new dawn.

Template and individual: synecdoche

Relations of synecdoche are relations of part to whole: in particular, the part *stands for*, or *represents*, or *refers to* the whole (or vice versa). To give a typical example, in the phrase '100 head of cattle', the animals are represented by one of their parts (their heads). The language of 'part–whole' is not to be read too literally here, as implying any form of essentialism ('hired hands' need not necessarily have hands). In some ways, then, we could think of such relations as metaphor. However, where the entity playing the 'part' role is an integral and inseparable part of the entity playing the 'whole' role, to speak in terms of synecdoche seems both appropriate and helpful; for in focusing upon the part, we may reveal or bring into sharper focus some unnoticed aspect of the whole. This is so whether or not the part is an essential part of the whole.[10]

It is clear that a template can, in no unremittingly literal sense, be considered part of the body. The body, as generally construed, is corporeal – is

flesh; a template, by contrast, is digital. But this is too simplistic, for advocates and opponents of biometrics would, or at least *should*, agree that bodies are never mere flesh, but are inherently informational and symbolic. *Pace* certain critics, biometrics does not cast the body as mere matter. It is only *because* the body is informational that it is able to yield up data to be captured in the template. It is not, therefore, unreasonable to think of the template as representing the body so-construed.

This is not, of course, to deny that biometrics considers the body as *physical*. But the physical is conceived of as essentially measurable. Thus, to the extent that one is physical at all, one is susceptible to enrolment on a biometric system of some kind. There are of course difficulties. Biometric systems are designed in the context of pre-established notions of normality. These notions are, to put it bluntly, crude in the extreme. Some ethnic groups experience disproportionate difficulty enrolling on databases based on photographic or video data. This 'is not attributable to the lack of distinctive features […] but to the quality of images provided to the facial-scan systems by video cameras optimized for lighter-skinned users'.[11] Objectionable as this is – and the phenomenon is common to many biometric modalities[12] – the core point remains that biometrics culls data from physical presence. Therefore if one were *in principle* unable to enrol on any biometric system whatsoever, it would follow that one lacked a physical presence (which is, pending solid evidence for mind–body dualism, or some variety of spiritualism, most probably impossible).

It is, then, fruitful to consider the relation of a template to the body from which it originates as one of synecdoche – fruitful, that is, in the sense that it serves to clarify the conception of the body. However, a certain kind of approximation and abstraction are implied. For what the template represents by way of synecdoche is not the whole individual, but merely the translation into digits of one aspect of them. In revealing this abstraction, the fetish character of the body in the biometric context will emerge.

One reason why it is helpful to characterize the template–body relation as one of synecdoche is because this serves to maintain the conceptual distinction between *identity* and *identification*. The synecdochal relation of template to body is not based in *identity*, but *identification*. This is an important distinction because some characterizations (we might even say caricatures) of biometrics are apt to equate it with an extremely crude form of reductionism, whereby the self-identifying individual is cast as a purely biological phenomenon, independent of its history, culture and so on.[13] But to cast it in this light – regardless of

whether or not advocates of biometrics think of or express themselves and their project in such terms – is to do it a disservice. Biometric systems draw identity and identification closer together: they do not *unite* them. The enrolment template represents the subject from whom it was derived, and serves to facilitate their *identification* – it in no way grounds their self-identity.

To briefly recapitulate: we began by pointing out that *identity* and *identification* are not quite two sides of the same coin. But biometrics seeks to close the conceptual gap between them by making its identifications in terms of data derived from the actual physical presence of the individual. The template produced when an individual is registered is an algorithmically encoded record of certain physiological traits of the individual. This, according to a conception of the nature of human life that (not unreasonably) appeals to physical presence as a necessary condition, constitutes an effective and efficient way of tracking identities across space and time. The relation of the enrolment template to the body from which it derives can be fruitfully understood as one of synecdoche. We turn now to the relation between the template and the individual.

The body as fetish object

There is no easy way of saying who we are. Certainly no list of descriptive statements, no matter how comprehensive, would suffice. This is, we suggest, a philosophical problem of *unity* – comparable with the problems of the unity of consciousness or judgment – rather than of biographical detail. It is not that we don't know enough facts about ourselves, but that no list of them would do justice to our nature. We are not constituted by biographical facts, just as we are not the amalgam of body and soul or body and mind. It is perfectly meaningful to speak of the body and the mind – moreover it is perfectly meaningful to speak of one's body and one's mind in the possessive – but though we speak in these ways, there is no good reason to suppose it indicative of a composite nature. To the contrary, the fact (if such it is) that no collocation of biographical facts could do justice to one's nature suggests that we are *not* composite in this way.[14]

As such, a template's representation of the individual *qua* 'owner' of a particular body, which uniquely exemplifies the biometric traits encoded within the template, is grounded in an abstraction. The set of data encoded in the template is a subset of the data encoded by the individual's body. But to think of the template as representing the

individual by virtue of their ownership of the body is to conceptually detach the individual from their body. It is to reify the biometric body as a possession.

This reification can go in either of two ways. The least sophisticated of these ways is to *identify* the individual with the biometric body. No doubt there are some proponents of biometrics who advocate this view. A more palatable option is to consider the biometric body as simply one part or aspect of a wider account of us as individuals. Preferable though this is, it is still open to the charge of abstraction. Such abstraction comes very naturally, for it is embedded in the possessive form 'my body'. What is particularly interesting about this dynamic of abstraction and reification in the field of biometrics is that it is accompanied by a form of *projection* to which we now turn.

We begin with an analogy. Individuals have a certain kind of 'roundedness' or 'multi-facetedness'. In large part this is a result of their social interactions with others. The disciplines that attempt to understand individuals in their roles as consumers, citizens and patients – that is, economics, political science and health care – are at their best when they acknowledge that roundedness. Take economics. The crudest economic models would be based on the assumption that consumers are rational, personal-utility maximizers. But real people are less than perfectly rational and have interests beyond their own personal, selfish wellbeing. (Obviously no serious economic model is as simplistic as this, but the point is clear enough.) If we understand 'consumer' in this way, our models will fail. Accordingly we must refine our conception of consumers. An analogous dynamic is to be found in the biometric domain where individuals are not adequately represented purely in terms of biometric traits. Consequently biometrics must refine its conception of the biometric individual. This initially occurs by way of a projection of relevant non-biometric properties on to the biometric individual. Thus as the concept of the biometric individual emerges by a process of abstraction from a wider, more rounded whole, so that process of abstraction is accompanied by a process of projection, the unconscious intention of which is to reinvest the biometric subject with those very characteristics, which were eliminated in the process of abstraction. The end results, then, are biometric entities with the *appearance* of a certain kind of roundedness. But this dynamic has the effect of turning the abstracted, reified, biometric body into a fetish object invested with what, in the biometric light, appear as utterly alien, irreducibly social properties.

The fetish is an object endowed with a special force, a magical power, inhabited by a spirit.[15] Fetishes constitute misleading and displaced

representations of the true relationship between the individual and things (as in Marx, Freud).[16] In the processes of abstraction and projection described above, we see the origins of the biometric illusion. The multifaceted, rounded, social individual is stripped of his or her body, as if it were a possession that they might relinquish. The biometric body in its pure physicality yields itself up for measurement. However, the purposes for which contemporary and future biometric systems are designed are not ultimately concerned with pure biology or pure physicality. Biometric systems are part of wider social, economic and political stories – the development of state authority (to put it in Foucauldian terms, of discipline and biopower[17]) as well as the rise of consumerism and individualism. Biometrics simply could not, with its practical applications in mind, consist of the mere abstraction and reification of the biometric body. These must be complemented by the reapplication of the critical relations that ground social, economic and political life. That is to say, the social relations subsisting between individuals must be thrust back upon the biometric body. This manoeuvre, this investiture of social relations upon entities (i.e., biometric bodies), which, by their very nature, are abstractions from the social, is shot through with fetishism. What is more, the fetishism is unavoidable given the practical applications of biometric systems; for such systems do not track identities as such, but facilitate the identification of *employees*, *consumers*, *patients*, *citizens*, *travellers* and so on.

Following Baudrillard, one could describe biometric enrolment as a process of *dematerialization*, which proceeds from physicality, to commodity, to sign, to basic information.[18] According to Baudrillard, dematerialization is accompanied by the *crystallization* of such residue as fails to evaporate into pure virtuality. However, we argue that 'informatization' is followed by the creation of a bodily fetish, a new object which is neither purely biological nor purely biographical. Biometrics may imply some form of reduction in its initial abstraction; but abstraction is supplemented by projection. The overall dynamic is not so much reductive as reconstructive. If a conceptual critique of the biometric programme is sought, it should begin from the recognition that the biometric body is a fetish object, which results from a questionable and, we would suggest, illegitimate process of abstraction and projection.[19]

In closing, we will attempt to situate the above conceptual discussion in a real-world setting. Since 9/11 there has been a significant focus upon the use of biometrics for security. Kelly Gates points out that in the United States 'Every major piece of post-9/11 federal security legislation included biometrics provisions.'[20] The question is: does the use of

biometrics in this way constitute a *breakthrough* in security provision, or is it just *more of the same*?

From the growth of media interest and political discussion of biometrics, one would suppose that a breakthrough had either been made or was imminent. We would not wish to deny that identification technologies have contributed to security provision, to the extent that they are a key component of national security measures and that biometrics are now considered state of the art in that field. But to admit this much is not to admit much at all. This does not constitute a breakthrough.

There is an obvious limitation to security provision based on identification of known suspects. Such measures are inherently *reactive*. For example, if the security services do not already know that Smith is a dangerous terrorist, their having very accurately identified him as he enters the country is not terribly helpful. Biometrics certainly enable progress in security prevention because biometric traces (e.g., fingerprints) can be retrieved from crime scenes or known suspects' haunts. But this is not, in principle, different from finding a known criminal's notebook with the details of all his colleagues; so there is no new breakthrough here, but merely an extension of an existing technique.

Where genuine breakthroughs have been sought is in the field of weak biometrics (behavioural and electrophysiological). Behavioural biometrics are primarily intended to reveal people's *intentions* rather than their identities. Here, it is supposed, is the basis for a *proactive* approach to security. These are, in effect, *screening technologies*, rather than identity-management systems. But the properties they screen for – namely intentions – are precisely the kinds of properties that are lost during the abstraction through which the biometric body emerges, and are only subsequently projected back on to the body. In this way, they appear as properties of biometric bodies (hence the fetish nature of the biometric body). Two points are particularly salient here.

Firstly, behavioural biometrics are likely to be particularly vulnerable to spoofing attacks. To take just one example, professional poker players earn their living by their ability to regulate their behaviour and so to mask their mental states. If behavioural biometrics are employed (e.g., measurement of heart rate), drugs could be taken to mask these effects. Secondly, just as the concept of the biometric body is an abstraction, so the (purely) mental life of the subject is an abstraction. Intentions, we might say are, in some sense and to some degree, the products of social relations, of cultural background, of both one's biography and the history of which one is a part.[21] But what is projected on to the biometric body is, by necessity, explainable in terms of these factors (if this were

not, then the biometric body would not be revealing of it). Thus the 'intentions' that are projected on to the biometric body are 'made to measure'. But intentions proper are not like that: intentions proper are only *part* of an individual in a metaphorical sense: really, individuals do not have *parts* that could be abstracted (abstraction is, in this case, a form of falsification). It follows then that the nature of one's intentions cannot be read with absolute accuracy from one's biometrics, behavioural or otherwise. The biometric framework lacks the conceptual resources to adequately comprehend the nature of intention. For this reason it cannot constitute a proactive security measure in any sense, which would warrant its description as a *breakthrough*. After all, screening and profiling are not new: they have a long and often shameful history.

Conclusion

We have attempted to sketch the conceptual framework in which the biometric project is located. We began by pointing out that *identity and identification* are not quite two sides of the same coin. We then argued that the relation of a biometric enrolment template to the body from which it derives can be fruitfully understood as one of synecdoche. The synecdochal relation of template to body grounds not *identity*, but *identification*. We then assumed – admittedly without argument – that the fact that no collocation of biographical facts could do justice to one's nature suggests that we are *not* of a composite nature, but are essentially unities. As such, an enrolment template's representation of the individual *qua* 'owner' of the particular body in question is grounded in an abstraction. The dynamic of abstraction and reification that we identified is accompanied by a form of projection, which reinvests the biometric subject with those very characteristics of which they were shorn in the process of abstraction. In this way biometric bodies are charged with the appearance of a certain kind of roundedness. This, we argued, is a form of fetishism, the nature of which determines that the application of biometrics to national security cannot constitute anything more than an extension of existing techniques of identification and profiling. These are simply more of the same, and certainly not the first rays of a new dawn.

Acknowledgements

This work has been partly funded by two grants from the European Commission within the scope of the FP7, Grant Agreement nr. 115827

(TABULA RASA – Trusted Biometrics under Spoofing Attack) and Grant Agreement nr. 244779 (PRESCIENT – Privacy and emerging fields of science and technology: Towards a common framework for privacy and ethical assessment).

Notes

1. In the 1960s the FBI started to automate fingerprinting, and in the 1970s they adopted the Automated Fingerprint Identification Systems (AFIS). In the same period, military facilities and nuclear power industries began to use biometrics for access control.
2. These include bar codes, optical memory cards, contact memory buttons, radio frequency identification and radio frequency data capture, micro electro mechanical systems and smart cards.
3. Change requires identity over time: if Gerald's height changed as he grew up, the height of the child and the height of the adult must both be heights *of the same person* – else in what sense did *Gerald*'s height change?
4. Such views originate in the distinction between *absolute* and *relative* identity. On this distinction see, P. T. Geach (1967) 'Identity', *Review of Metaphysics*, 21, pp. 3–12.
5. Recent research has found that most objects contain a unique physical identity code formed from microscopic imperfections in their surface. This covert 'fingerprint' can be rapidly read using a technique called 'Laser Surface Authentication'. See P. R. Seem, J. D. R. Buchanan and R. P. Cowburn (2009) 'Impact of Surface Roughness on Laser Surface Authentication Signatures under Linear and Rotational Displacements', *Optics Letters*, 34:20, pp. 3175–7.
6. Various overviews of biometric modalities and techniques are available. See A. K. Jain, P. Flynn and A. R. Arun (eds) (2008) *The Handbook of Biometrics* (New York: Springer).
7. In 'negative identification' it is confirmed that individuals are *not* in a database (e.g., terrorist suspects).
8. J. D. Woodward Jr, N. M. Orlans and P. T. Higgins (2003) *Biometrics: Identity Assurance in the Information Age* (Berkeley: McGraw-Hill/Osborne), p. 6.
9. J. Pugliese (2010) *Biometrics: Bodies, Technologies, Biopolitics* (New York: Routledge), p. 73.
10. Though there is clearly a close connection between synecdoche and metonymy, we will not discuss it here.
11. S. Nanavati, M. Thieme and R. Nanavati (2002) *Biometrics: Identity Verification in a Networked World* (New York: John Wiley), p. 37.
12. *Ibid*. For discussion, see J. Pugliese (2010) *Biometrics*, especially Chapter 2.
13. Or perhaps these latter aspects of life are in turn subjected to biological–physical reduction.
14. This is a significant philosophical point presented without a serious philosophical argument. Our only excuse is that this is not the place for that discussion.
15. W. Pietz (1985) 'The Problem of the Fetish', *Res: Anthropology and Aesthetics*, 9, pp. 5–17.

16. Though they are also themselves resistant to the process of reification. See G. Agamben (1977, trans. 1993) *Stanzas. Word and Phantasm in Western Culture*, trans. R. L. Martinez (Minneapolis, MN: University of Minnesota Press).
17. For an excellent discussion of biometrics 'under the lenses of Foucault's notions of discipline and biopower', see C. Epstein (2007) 'Guilty Bodies, Productive Bodies, Destructive Bodies: Crossing the Biometric Borders', *International Political Sociology*, 1:2, pp. 149–64.
18. See J. Baudrillard (1983, trans. 1990) *Fatal Strategies*, trans. P. Beitchman and W. G. J. Niesluchowski (New York: Semiotext(e)).
19. To reiterate, our view of the process as *illegitimate* is based on a conception of the individual as an indissoluble unity, rather than as a mereological sum of aspects (e.g., a bodily aspect and a mental aspect). We have not argued for this position here. To this end it should also be noticed that biometric appliances themselves come to acquire, by a process of conceptual projection, properties that are alien to mere artefacts. This is perhaps clearest in the case of ambient intelligence, where artefacts enter into quasi-personal relationships with individuals (though the status of the individual – or at least their self-conception – in these kinds of contexts is difficult to gauge).
20. K. Gates (2006) 'Identifying the 9/11 "Faces of Terror"', *Cultural Studies*, 20:4–5, pp. 417–40, p. 417.
21. We do not mean to imply that intentions are *determined* by these factors. To suppose that would be to fall foul of the abstracting tendency.

Part II
Beyond the Central State: Community, Commerce and Economics

7

The Parish Registers in Early Modern English History: Registration from Above and Below

Simon Szreter

Introduction

There are a very considerable number of purposes that identity registration systems can serve. Legitimate users of such systems play many roles and perform many functions in utilizing such systems: some individuals wishing to bequeath or inherit property, others seeking to validate their rights to various welfare entitlements or simply use their credit or debit cards. The right to vote itself is validated by reference to such a system, while the internal policing and external border control agencies of the nation state rely heavily on the use of identity registration systems. Public servants of municipalities such as school managers, private insurance companies and banks, alongside health professionals and many religions and their organizations all have recourse to the use of identity registration systems.

The most comprehensive and authoritative systems in use today are accumulated and funded centrally by nation states and governed by their national legal codes, though they can be quite diverse in their characteristics. Yet a surprisingly large number of nation states today have no effective civic registration system for their citizens, even for the elementary functions of registering birth and death.[1] The citizens of other countries are subject to a whole range of such identity systems, such as in Britain today where the state-resourced systems of civil registers, passports, electoral registers, National Health Service numbers, National Insurance numbers and Driver and Vehicle Licensing Agency numbers are supplemented by a vast panoply of less comprehensive but large and diverse commercial registries of customers' identities, many of which are traded for their value in accessing potential consumers. Notwithstanding this proliferation in public and private settings, however, many of the various identity registration systems operating

today or, indeed, those functioning in past societies, are only recently being subject to detailed sociological or historical research.[2]

Even if we focus only on the history and origins of a single type of such identity registration system – the civil registration of births, marriages and deaths – there is, as yet, very little systematic historical information available.[3] The English historical case has been subject to more research than most others, yet it was only very recently that a persuasive answer was provided to the question of why and in what form the modern civil registration system of births, marriages and deaths was established by two parliamentary Acts of 1836. Eddy Higgs has convincingly argued that the Acts were the product of a well-orchestrated social movement by the early nineteenth-century propertied upper and middle classes 'to establish state institutions for the recording and preservation of titles to property', a movement that simultaneously led to the establishment of the related institutions of the Public Record Office, the Patent Office, the Land Registry and the Central Probate Office.[4]

However, this modern state-funded system of civil registration was itself the direct successor to a long-established, early modern national system of identity registration, the parish registers created almost exactly three centuries earlier in the reign of Henry VIII by the then-new Church of England, independent from Rome. If this was the very first such system of national identity registration in Britain, why was it brought into being? Was the 1836 civil system devised to serve novel purposes or was it simply a reform to preserve and continue the original purposes? In another stimulating work of synthesis with a longer chronological reach, Higgs has argued that the Anglican parish registers promulgated in 1538, though not the product of a pressure group campaign as in the 1830s, were also set up for essentially similar reasons to the civil system of 1836 – to protect and promote the security of the property interests and inheritance practices of the propertied classes at that time.[5] Higgs' principal evidence for this thesis was a contemporary quotation from Thomas Cromwell, originally researched and published by the doyen of Tudor historians of government, Sir Geoffrey Elton, explaining that the system of parish registers was to be created,

> … for the avoiding of sundry strifes and processes and contentions arising from age, lineal descent, title of inheritance, legitimation of bastardy, and for knowledge, whether any person is our subject or no.[6]

The only problem with Higgs' argument is that Elton himself did not credit this quotation with the interpretation that Higgs has placed upon it.

Thus, the answer to a key question for us as historians remains uncertain – what was the motive for this first initiative in identity registration of 1538? Was it really so similar to that of 1836? A second question, almost equally important in such a pioneering case, is why and how did the parish registers endure for so long, right into the modern period in the early nineteenth century? This chapter therefore seeks to cast some further light on two important aspects of the history of identity registration in English history. Firstly, it cross-examines the alternative interpretations of Elton and of Higgs about the motives behind the origins of the parish registration system by bringing to bear some additional historical evidence on the economic and social context in the 1530s, to assess the plausibility of their different views. Secondly, the chapter deploys a comparative perspective to explore further the question of the long duration of the English parish register.

The motives behind the creation of the English parish registers in 1538

In England there is a clear, unambiguous and reasonably well-documented starting point in the nationwide system of parish registers of baptisms, marriages and burials caused to be set up in 1538 by an injunction issued to all bishops and magistrates (justices of the peace) by Thomas Cromwell, Henry VIII's vicar-general of the new, Reformed Church. When first discussing Cromwell's initiative Elton said of the parish registers created in 1538 that 'the purpose, almost certainly, was to provide a statistical basis for government action, a record of the people of England', and he added 'the usual suspicion arose that the government intended to use its knowledge in order to tax'.[7] Elton further noted in a subsequent publication that suspicions and rumours that parish registers would be used for taxation even preceded Thomas Cromwell's first injunction.[8] However, despite Elton's reflex supposition, the fact is that the parish registers were not used by any Tudor monarch to raise taxes, and there is no documentation to suggest such a motive.[9] Secondly there is no evidence of any attempt at the time or later to create a system of central returns of these registers (returns were only ever made to diocesan bishops). Thirdly, there is Cromwell's own explicit statement of December 1538 (cited above), reproduced by Elton in 1972 and Higgs in 2004, stating that the registers were to be created mainly for property-legitimation purposes.

As is well-known, Sir Geoffrey Elton's methodological conviction when interrogating the public statements of the political figures in the

past, whom he came to know so well, was always to reject the ostensible reasons they gave for doing anything and to search instead for the true motives underlying their policies and machinations. This Machiavellian interpretative reflex, like the celebrated maxim commonly attributed to Jeremy Paxman when interviewing contemporary politicians – 'Why is this lying bastard lying to me?'[10] – may be an excellent general guide to follow most of the time, but perhaps just occasionally it may cause its purveyor to overlook the significance of the resort of a politician to stating the plain truth, as they see it, on some occasions. Is it possible that, despite Elton's reflex suspicions, the motive spelled out by Cromwell in December 1538 may, in fact, have been the genuine primary purpose he intended for the creation of parish registers; and that the system then flourished and persisted partly because it was fulfilling an important legal and economic need on the part of the property-owning section of English society, rather than Cromwell having had a state surveillance or tax-raising purpose in mind? Eddy Higgs clearly thinks this is the case. However, I am not aware that he has provided us with any independent reasons or evidence for believing this. Higgs has not addressed or debated Elton's suspicions nor has he endeavoured to produce any further evidence either way on this issue. Nevertheless, Higgs may well be right and Elton may be wrong. But we need further evidence and arguments to determine this.

I think there are actually two important and entirely distinct forms of independent evidence about late medieval and early modern English society and economy that we can bring into play, and whose implications do, in fact, each appear to support Higgs' inclination to trust Cromwell's words at their face value. Firstly, there are the implications of the evidence of the celebrated study of the initial emergence of written records in administrative and legal practice in England by M. T. Clanchy.[11] Secondly, there are the implications of comparative evidence of what the English did when they found themselves in circumstances without such a registration system – here we can look to the history of early modern settlement in North America.

Written records in England c.1200–1530

Clanchy's classic study demonstrates how there was a relatively widely diffused market in property transactions in England, which already by 1300 had progressed to making written documents for legal proof a widespread activity, with a keen awareness of the problem of fixing a record of personal identity in relation to these documents. Clanchy tells

us that the very meaning of the word 'record' fundamentally changed between the twelfth and the thirteenth centuries, from referring to an event, that of 'an oral witness statement by Knights', to that of 'making a document with a date and seal for archival deposit'.[12] Hence, the derivation of the legal term 'title-deed' to a property, where the word 'deed' is a reference to the performance in the pre-documentary past of a commemorating ritual (for instance, the 'livery of seisin' where land was concerned, marking in the collective memory the conveyance of landed property from one party to another).[13] Superseding the performance of this collective deed to mark a contract in the collective memory, by 1300 conveyancing was becoming a documentary, written charter with seals attached identifying each of the two individuals who were party to the contract (in the form of a chirograph, this allowed each party a half-copy of the contract containing the other party's seal).[14]

Clanchy has also documented the ways in which from the late twelfth and thirteenth centuries onwards the institutions of both crown government and church administration came to attach increasing importance to a cluster of related processes necessary for a system of written record to become functional and efficient: the principle of creating the written records themselves as bureaucratic reflex; the increasing value placed on the clerical skills of writing; and the appreciation of the importance of the registry principle (the safe archiving and preservation of these written records and the associated information and location systems necessary for their efficient retrieval).[15] Archbishop Hubert Walter, Richard I's chief justiciar (1193–8) and King John's first chancellor (1199–205), is a key figure here, both in relation to the establishment of central and local government record-keeping institutions of relevance to private citizens and the land market, and also to the beginnings of vital registration records. In 1194 Walter set up the system of county coroners, with every coroner assisted by a recording clerk to keep the new coroner's rolls. Thus, the crown had created a system for monitoring and recording all deaths around the country where there was a property interest involved.[16]

In 1195 Walter introduced royal 'feet of fines', which were a triplicate version of a chirograph, so that in addition to the two private parties having a record of their transaction a third, corroborating record was simultaneously created for preservation in the royal treasury.[17] This innovated the archival principle of a continuing series of permanent records of private transactions, backed by the authority of the state. Clanchy notes that there is evidence within a few years of wealthy private individuals paying fees for the facility of using and consulting this

new class of records held at the royal court.[18] Meanwhile, soon after this English bishops were to become used to keeping their own written records on registers (codices) following the Lateran Council of 1215, while the form of their record keeping followed English royal chancery practices, seen as setting the standard for best practices of legal reliability.[19] By 1250, therefore, both private citizens and the crown were beginning to refer routinely to the written record, such as Domesday or the Feet of Fines, to establish their property-related claims, rather than assembling a jury of 12 knights to give oral testimony.[20]

Thus, in summary, Clanchy's evidence shows that there was a long history, before the parish registers were created in 1538, of increasingly widespread use of documentary records throughout English society, not only in central government where standards and practices were set, but also widely diffused within the provinces among the bishops and their staff and in county coroners' offices and among landowners. For well over two centuries before 1538 crown and church had been increasingly involved in creating, archiving and retrieving written records of title to property, including in relation to transactions between private individuals, not just for the crown's or for the church's own internal administrative purposes. Intriguingly Clanchy also has evidence that by the end of the century that began with the sealing of Magna Carta in 1215, even illiterate serfs were using personal seals for their own identity authentication on chirograph documents, drawn up by clerics for property transactions.[21]

It is, therefore, in this context of several previous generations of increasing commercial and legal activity from c.1300 onwards that Cromwell's talk of the parish registers as offering assistance with 'sundry strifes and contentions' related to property transactions and inheritances should perhaps be understood at face value as an administrative response to a widely perceived social need throughout the economy. Although England in 1538 was not remotely a democracy, it was almost certainly a society of relatively widely diffused property ownership, and a society that had been accustomed to an active market in property conveyance and transfer – even of small plots at the humble level of yeomen and serfs – since at least the mid-thirteenth century.[22] For all these property owners and property transactors questions of inheritance, probate of wills, proof of legality of charters, title-deeds and acts of conveying of land were processes that required an administrative and legal solution to the dilemma of how to establish both claims to personal identity and relationships of kinship and marriage. Parish registers promised to provide a cheap, general solution to this problem.

The English overseas in early modern New England

There is a second, quite different form of evidence that can provide a further independent test of the contention that there was real bottom-up demand from small and medium property holders in early modern English society for a secure and authoritative system of legal identity registration to be maintained with the resources and sanctions of central government. Such a test can be mounted by resort to the comparative method by examining what happened in the early modern period when groups of Englishmen, including many who were dissenters from the newly established state church – and therefore unlikely to be particularly well-disposed towards its system of parish registers – found themselves in a position where there was no such system of identity registration available to them.

Here, the history in the seventeenth century of the early Puritan settlers in New England is very helpful – and it is one of the few other cases where we have good historical secondary documentation already published. In North America the first permanent settlement, the New Plymouth Colony, was founded in 1620, and the second, the Massachusetts Bay Colony, in 1630. By 1641 both these self-governing colonies had adopted a common pattern of endowing themselves with a 'democratic' legislature, a general court, whose representatives were elected by all freemen of the colony, provided they were Christian.

It is interesting for our purposes that both of these two colonies' general courts then proceeded, within just a few further years of their formation, to pass identity registration laws – Massachusetts in 1639, and New Plymouth in 1645 or 1646. It is furthermore extremely clear from the historical documentation, which survives in the case of the Massachusetts Bay Colony but not for Plymouth Bay,[23] that the recording of property ownership for legal purposes was the main motive for the registration laws in the eyes of these independent communities of colonists. Thus, the Massachusetts Bay Colony law of 1639 stated:

> That there be records kept of all wills, administration, and inventories, as also of the days of every marriage, birth and death of every person within this jurisdiction.[24]

It was required that these records were to be certified once each year by the general court itself, stipulating that without this certification they would have no legal status. Robert Gutman also notes that '[t]he records were to be kept by the recorder of each town, an appointed

official whose job also included making records of the place of each man's house and lands, the judgements in every Court and a record of all purchases by the Indians and from the Indians'.[25]

Thus, the actions of the new colonies of small freeholders of Protestant dissenters in New England show that early modern Anglo-Saxons considered it of great importance to endow themselves with officially sanctioned legal identity registration systems, if they found themselves in a situation where none existed, recognizing the value of these institutions for a commercially active society wishing to acquire, bequeath and trade in private property. Furthermore, since they were dissenters, partly motivated to migrate by a desire for independence from the Established Church and the English crown in its role as the nation's institutional religious enforcer (it was only rather later in this century of religiously inflected civil strife that the principles of the 1689 Act of Toleration were established), this would appear to constitute evidence that they associated the value of such identity registration systems with the utility it provided to their own civil and economic purposes, rather than with any uses it might have for the heavy hand of the confessional state, as Elton had speculated.

Given the implications of these two independent forms of historical evidence regarding the prior widespread diffusion of documentary practices, including for civil and commercial purposes in late medieval England, and the self-registering activities of dissenting Englishmen overseas in the early seventeenth century, it appears that, whatever Cromwell's ultimate motives may have been, the creation of an identity registration system was, indeed, something that was widely valued by the early modern English for providing the legal and economic services that Cromwell specified in his statement of December 1538.

Accounting for persistence through a comparative perspective

Being able to account for the historical origins of a large, complex and resource-using institution such as the parish registration system, is one thing, but being able to explain its *persistence* – its efficient and effective maintenance over decades extending into centuries – requires additional historical reasoning and evidence. The capacity of the Cambridge Group for the History of Population in the 1970s and 1980s to reconstruct the nation's population history from a 4% sample of the 10,000 English parish registers, whose information had survived sufficiently intact for over four centuries despite the whole system having been essentially

superseded from 1837 onwards by civil registers held at Somerset House in London, is testimony to the fact that these parish registers were kept with diligence all round the country decade after decade for about a quarter of a millennium after 1538. Was the original purpose – to provide legal property title – sufficient reason to achieve this?

The comparative history of identity registration in the New England colonies is again helpful in addressing this question. It suggests that this impulse may not have been enough, alone, to sustain an extensive nationwide system of identity registration, even in a fervently property-owning society such as that of the newly emerging American settlements. In New England (and also in the Middle Atlantic and Southern colonies) the parish registration system existed only in some communities and never really flourished on an extensive scale.[26] Nor did parish identity registration or a functional alternative, along the lines of civil registration, ever became established as a more general system once the new Republic of the United States was created after 1776. Instead, the new nation came to rely exclusively on the cheaper option of a decennial census, alone, for its politico-demographic knowledge.[27] It was not until the mid-nineteenth century in Massachusetts and later in the second half of the nineteenth century elsewhere that a serious effort was made to increase vital registration throughout the United States; and when that push did come it was in fact medical doctors who took the lead, arguing for the necessity of the system on grounds of disease prevention to promote public health. They were joined later by immigration restriction activists with a somewhat different definition of the nation's – racial – health.[28]

So, can the comparative perspective with New England help us in any way to explain the impressively comprehensive nature of the English parish registration system and also its persistence for well over two centuries throughout the early modern period? We might, following Elton's monumental work on the Tudors, point to the power and efficiency of the English central state to ensure local compliance, through the increased bureaucratic efficiency of the Tudor polity, such as in the activism of the newly instituted device of the Privy Council, and through its successful co-opting of the thousands of local justices of the peace to loyally do its bidding and ensure that the sovereign's parliamentary statutes were enforced.[29] There is certainly much in this. But in matters of local governance and grass-roots implementation of statute, there is also another, quite specific institution, very important in Tudor, Stuart and Hanoverian history, whose relevance we should consider, and which also provided a powerful set of incentives for all in

local communities – from the wealthiest to the poorest – to want to see a well-functioning system of parish identity registers in operation. This second and complementary motive for early modern parish communities to keep accurate records of baptisms, marriages and burials was in order to facilitate the efficient working of the parish-based system of social security created by the Elizabethan Poor Laws.[30] The first attempts to institute such a Poor Law system occurred in statutes of 1536, 1547 and 1572, with final successful implementation in the two Act of 1598 and 1601, followed by their accompanying Laws of Settlement of 1662 and thereafter.[31]

Why should there have been such a close interrelationship between the Poor Law and parish registers in England? While the relatively wide diffusion of property ownership and market transfers provided the more prosperous and secure half of the English population with a direct personal reason to support the principle of identity registration for their own inheritance, probate and conveyancing purposes, the creation by the Tudor state of a parish-funded system of taxation on the same section of the population – the property holders – in order to support the indigent poor and orphans in their communities now created a second very good reason why those paying into this parish fund would want to see a well-maintained identity registration system kept in their parish. This was in order to provide the documentary record to enable their liabilities to be limited only to those who could prove they had a legitimate right to a claim on the parishes' funds by virtue of their 'settlement' in the parish (by birth, marriage or residence). This also, conversely, provided those likely to be in need of such support – the poorer members of the local community – with a compelling motivation to have their children's legitimate entitlement to receive such support from the parish fund properly acknowledged by recording their settlement rights – either by birth or marriage – in the parish registers.[32]

There was, thus, a notable chronological correspondence between the more important legislative changes to the Poor Laws and developments in the parish registration system. Thus it was in 1598 that Queen Elizabeth approved the proposal at a Canterbury meeting of the Established Church, which ordered parishes to keep parchment registers in secure lockers to replace the previous flimsy paper records, and also to make full copies of all earlier registers. These, along with monthly copies of all new registers, were now to be sent in future to the diocesan register, creating an altogether more secure system of duplicates and a more permanent record for posterity (as all members of the Cambridge Group for the History of Population well know, it is these parchment copies made in 1598 that today provide virtually all of the surviving

documentation of the earliest registers, extending back to 1538 in some cases). It seems unlikely that it was mere coincidence that 1598 was also the year the Elizabethan state, after several decades of earlier legislative experiments, passed the first of the statutes that are considered to have created the final form of the parish-based Poor Law, aimed at maintaining social order and stability by supporting the deserving poor in society and identifying and disciplining vagabonds.

It was also the case that the announcement of the original parish registration scheme in 1538 had followed within two years of Thomas Cromwell's first attempt at paternalist Poor Law legislation, the 1536 statute. Tate notes that the injunction to keep parish registers, originally issued by Thomas Cromwell in 1538, was repeated by Edward I in 1547, by Elizabeth I in 1559, and again in 1598, when Elizabeth approved the Poor Law statute and the changes to diocesan record keeping.[33] The 1547 injunction by Edward I also coincides with further Poor Law legislation in that year, although the major Poor Law statute of 1572 does not seem to have resulted in a further parish register injunction. However, this might well be because that particular statute experimented with trying to solve identity registration problems through an alternative method – by empowering justices of the peace to take purpose-specific surveys of the poor in each parish. The finalized version of the Poor Law of 1598 and 1601 no longer envisaged making specific surveys of the poor, and also included a specific provision that vagabonds (those of no fixed abode) could be sent back to their place of birth, which presupposes of course the availability of the information recording location of baptisms contained in the parish register system, and its availability for the use of Poor Law officials to repatriate such vagabonds.[34]

Indeed, the chronological conjoining of these two institutions in English history recurs yet again over two centuries later. Both the Poor Law and the parish register system were increasingly subject to criticism and attempted reforms from the 1780s and 1790s onwards;[35] and both were finally comprehensively revised by landmark acts just a couple of years apart in 1834 and in 1836, respectively. Once again the British state, in response to the pressure of civil society at the time, radically revised the laws relating to both identity registration as a facilitator of property transmission and inheritance in the 1836 Marriage and Registration Acts, and the terms and obligations of rate-paying property owners to the poor in their local communities, through the Poor Law Amendment Act of 1834.

As we have seen, the New England settlers created parish registers for property title and property transmission purposes, as had been

sponsored by the state in England. They also promulgated Poor Laws. However, the history of the Poor Laws in New England, and most particularly the administrative and legal detail of how issues of settlement arose and were resolved, was sufficiently different from that of England that the records of registration of vital events were much less likely to play any significant role in matters of litigation.

The key differences here pertain to the practical, administrative processes adopted by Poor Law authorities to adjudicate cases of the disputed liability of their own town to support an individual requesting poor relief. These differences, in turn, were not primarily a result of legal divergences, since both the Poor Laws and the settlement rules adopted were heavily influenced by the practices of the mother country.[36] There were, however, two key differences in their administration. Firstly, in Puritan New England there was no incumbent ministry of the Church of England to be called on to provide for free the registration service to the local authority, as in England. Therefore fees had to be charged for each registration, something that the Massachusetts authorities had to reinforce with a system of penalties for default.[37] Secondly, there were the very distinct demographic circumstances, compounded by the different socio-legal status of most of the poor coming before the Poor Law administrators in the New World. Throughout the formative decades of the second half of the seventeenth century when the new system of Poor Laws and township registration was being created in New England, the populations of these American colonies and their towns and counties were growing demographically to an incomparably greater extent than in England by the process of immigration of persons born outside the colony (indeed, mostly born outside the continent). This was further compounded by the fact that a very large proportion of the new arrivals – these newcomers always being a majority of the poor with whom the Poor Law authorities had to deal – were either unmarried indentured servants (estimated at over half of all white immigrant arriving in the colonies throughout the period before 1776) or convicts (still almost a quarter of all British immigrants to colonial America during the eighteenth century).[38] Consequently, unlike the comprehensive English parish registers, records kept by town clerks in New England of births and marriages on American soil could never be an important information resource for the Poor Law authorities in relation to the great majority of the cases they dealt with when they were trying to establish whether individuals possessed the right of settlement that conferred liability on the locality for their poor relief.

Therefore, as a consequence of the sheer impracticality in these circumstances of utilizing the English principle of using birth and marriage

records to establish settlement as a practical means to attempt to limit the community's poor law liability to a notional 'resident' population of the locally entitled, in the New England colonies the distinctive and alternative procedures of 'warning out' were adopted and much more systematically developed than in England.[39] This relied on the preventive strategy of trying to ensure identification of all newcomers and ejecting them before they became a charge on the community's coffers, unless they could satisfy various criteria demonstrating their capacity for economic self-sufficiency. In terms of the data-gathering processes involved, this means that the Poor Laws of New England relied on the reciprocal to that of a system registering comprehensively all legitimate inhabitants, as provided by the English parish registers. Instead, the more efficient of the officials charged with 'warning out' maintained registers of those removed so that they could be ejected if they turned up again, and also as an auditing record of their diligence and of their official expenses incurred in turning persons away.[40] Indeed, in many areas, by the eighteenth century local authorities were attempting to conduct regular surveys of inhabitants in order to systematically identify the newcomers in their midst and subject them to tests of their eligibility to remain.[41] The rules governing New England procedures often specified removing unwanted individuals back simply to their last place of residence,[42] rather than, as in England, there being a legal obligation to identify their location of settlement (often meaning where they were born, or, for a woman, where married) before conveying the 'stranger', at parish expense, out of the parish and back to their supporting community.[43]

With these important differences in the Poor Law systems operating on either side of the Atlantic in the early modern period, only a part of the New England population of the seventeenth and eighteenth centuries would have had a direct economic incentive to value the identity registration system – only those who were property holders and aspired to be bequeathing or inheriting property would be inclined to see the fees paid for registering their vital events as being a priority.[44] In colonies rapidly demographically expanding by immigration, such property holders did not remain in the majority; indeed, inequalities of wealth-holding were probably already increasing from the late seventeenth century onwards in most of the North American colonies. Thus, unlike in England, the identity registration systems and their records were decreasingly of direct relevance and use to the fastest-growing section of the population, the labouring poor. Gutman concludes of the early state system in Massachusetts of collating and reporting on the data,

which could perhaps have acted as break on this deterioration, that 'in the seventeenth century, when the settlements were sparsely populated and concentrated along the seaboard, the counties had assembled data but they abandoned the responsibility when Provincial Government was established in 1692'.[45] The Massachusetts system had therefore fallen into disrepair and was not available as a model to be copied and adopted elsewhere in the Republic after 1776, as the union of states spread south and west across the continent, so that from 1790 Congress relied on the census for its political apportionment needs. Even in Massachusetts itself registration practically had to be reinvented by Dr Lemuel Shattuck and his allies in the mid-nineteenth century, whose principal motivation at that time was the entirely new one of using vital registration systems as essential intelligence for public health purposes of disease prevention.[46]

Conclusion

Thus, while identity registration systems introduced during the course of the nineteenth and twentieth centuries in many settings in the world have been created for various reasons of state surveillance including public health, border control and labour management – as many of the other contributions to this volume demonstrate – historians should also be aware of the wider range of motives and contexts that have influenced the creation of such systems in the past. In early modern English history, use of the comparative perspective in relation to the history of some of the English settlers overseas in the New England colonies shows that economic motives relating to the preservation of the commercial and the social security of both property holders and the non-propertied poor appears to have not only provided substantive motivation for the creation of an extensive national apparatus of identity registration, but also to have accounted for its long-term persistence over several centuries as a relatively efficient administrative system in England. When the English settled overseas in seventeenth-century New England the motive of the settlers to establish a property-holding community was sufficiently strong to ensure the creation of an identity registration system, to facilitate legal commercial and inheritance transactions, as an early priority of the new colonies. However, owing to the radically differing socio-demographic, religious and administrative circumstances, although there was indeed a comparable system of community Poor Law provision in New England, the fact that it did not operate in an analogous fashion with respect to practical procedures for

containing liabilities to those deemed to be entitled residents, along with the disincentive of fees for registering vital events, meant that there was little motive among the poorer half of the settlers to bother to participate in the identity registration schemes; and no imperative to do so enforced upon them by the propertied elites, either. This may be an important part of the reason for the failure of an efficient and comprehensive identity registration system to become established and persist in New England, even though such town-based systems were instigated early in the development of the colonies.

This comparative exercise – albeit provisional and limited in scope – would appear to suggest, therefore, that for an effective identity registration system to be efficient and to persist over decades, and even centuries, what is ideally required is the voluntary consent and incentive of the individuals being registered as well as the commitment of the necessary resources of the larger collectivity by whom the individuals need their legal identity to be recognized. Without incentives for all, accurate registration will either become an extremely expensive and onerous exercise for the registering authority to achieve compliance from an unmotivated section of the population, or it will simply be inaccurate and plagued with evasions and soon fall into disuse. Among the property-owning and property-registering English the early modern period offers examples of both of these outcomes on either side of the Atlantic. In England registration worked and persisted because it was both instigated 'from above' and supported 'from below'. The central, confessional state had the capacity to insist on the 'volunteered' labour of the local parish incumbents and their appointed clerks to maintain the system efficiently. But there was genuine demand for the system as well as effective supply. With the parish Poor Law in place and its rules of entitlement through settlement, the people of each community, rich, poor and middling, all had compelling personal incentives voluntarily to participate in the system, endowing it with the longevity and ubiquity that failed to be sustained in the different circumstances of New England.

Acknowledgements

In addition to all those present at the IdentiNet workshop, *Identifying the Person: Past, Present, and Future*, St Antony's College, University of Oxford, 26 September 2009 and the volume's editors, I am indebted to Paul Slack, Richard Smith and Steve Hindle for their most helpful advice and to colleagues who are expert in the history of colonial America

for their generous guidance: Betty Wood, Tim Lockley, Gideon Mailer, Simon Newman and Cornelia Dayton.

Notes

1. P. Setel, S. B. Macfarlane and S. Szreter et al. (2007) 'A Scandal of Invisibility: Making Everyone Count by Counting', *The Lancet*, 370:9598, pp. 1569–77.
2. An important pioneering volume of comparative historical research in this respect is: J. Caplan and J. Torpey (eds) (2001) *Documenting Individual Identity. The Development of State Practices in the Modern World* (Princeton: Princeton University Press); and for an innovative collection of sociological studies of contemporary systems, see C. J. Bennett and D. Lyon (eds) (2008) *Playing the Identity Card. Surveillance, Security and Identification in Global Perspective* (London: Routledge); for other emerging relevant research, see the IdentiNet website's bibliography: http://identinet.org.uk/bibliography/.
3. But see K. Breckenridge and S. Szreter (eds) (2012) *Recognition and Registration: Documenting the Person in World History* (Oxford: Oxford University Press/ British Academy).
4. E. Higgs (2004) *Life, Death and Statistics: Civil Registration, Censuses and the Work of the General Register Office, 1836–1952* (Amersham: Halstan), pp. 7–17, p. 9.
5. E. Higgs (2004) *The Information State in England: The Central Collection of Information on Citizens, 1500–2000* (London: Palgrave), p. 39.
6. Originally cited in G. R. Elton (1972) *Policy and Police: The Enforcement of the Reformation in the Age of Thomas Cromwell* (Cambridge: Cambridge University Press), pp. 259–60.
7. G. R. Elton (1969) *England, 1200–1640* (Ithaca, NY: Cornell University Press), p. 111.
8. Elton (1972) *Policy and Police*, pp. 68–9.
9. Though W. E. Tate (1946) *The Parish Chest A Study of the Records of Parochial Administration in England* (Cambridge: Cambridge University Press), pp. 48–50, had noted that such an attempt to levy a charge for registration was briefly (and ineffectively) tried on two much later occasions, 1694–1705 and 1783–94. Knowledge of this may perhaps have caused Elton to offer his suggestion.
10. In fact the statement was made by Louis Heren, a former deputy editor of *The Times*, in his memoirs. Paxman once quoted it. See 'Paxman answers the questions', *The Guardian*, 31 January 2005.
11. M. T. Clanchy (1979) *From Memory to Written Records, England 1066–1307* (London: Edward Arnold).
12. *Ibid.*, pp. 56–7.
13. *Ibid.*, p. 36.
14. *Ibid.*, pp. 65–7.
15. *Ibid.*, Chapter 2.
16. *Ibid.*, p. 50. The crown was financially incentivised to do this because of the law of escheat, which provided that feudally held fief property and its revenues reverted to crown management and benefit for a period of one year and one day for those dying without an heir or those who had committed a felony. Thereafter it reverted to the original lord who had granted it, hence

the crown's need for efficient information to maximise its revenue from this source.

17. *Ibid.*, p. 48.
18. *Ibid.*, p. 49.
19. *Ibid.*, pp. 53–4.
20. *Ibid.*, pp. 19–20.
21. *Ibid.*, pp. 33–4.
22. *Ibid.*, pp. 34–6. In 1436, nearly half of all land in England was owned neither by the crown, nor the church, nor the great landowners; and by 1688 these middling and lesser gentry, yeomen farmers and other small owners had increased their share to over 70% of the total. C. G. A. Clay (1984) *Economic Expansion and Social Change: England 1500–1700*. I *People, Land and Towns* (Cambridge: Cambridge University Press), p. 143, Table V. Note that the class of copy-holders, who were not freeholders in any modern sense, nevertheless also enjoyed quasi-property rights to land at this time and this included a large swathe of the populace: R. H. Tawney (1912) *The Agrarian Problem in the Sixteenth Century* (London: Longmans, Green and Co.), pp. 287–8, was of the view that 'the copyholders far exceeded in number upon most manors all other classes of tenants together'.
23. R. R. Kuczynski (1900) 'The Registration Laws in the Colonies of Massachusetts Bay and New Plymouth', *Publications of the American Statistical Association*, 7:51, pp. 1–9.
24. R. Gutman (1958) 'Birth and Death Registration in Massachusetts, I, The Colonial Background 1639–1800', *The Milbank Memorial Fund Quarterly*, 36:1, pp. 58–74, 60.
25. *Ibid.*
26. Hence it has not been possible for American demographic historians to reconstruct the colonies' collective population history during the seventeenth and eighteenth centuries with a similar methodology to that used for England by Wrigley and Schofield. For a good idea of the scattering of communities with surviving records from this period, see the various studies collected together in M. A. Vinovskis (ed.) (1979) *Studies in American Historical Demography* (New York: Academic Press); and the 'Bibliographical Essay', pp. 180–5 in H. A. Gemery (2000) 'The White Population of the Colonial United States, 1607–1790' in M. R. Haines and R. H. Steckel (eds) *A Population History of North America* (Cambridge: Cambridge University Press), pp. 143–90.
27. M. J. Anderson (1988) *The American Census. A Social History* (New Haven, CT: Yale University Press).
28. R. Gutman (1958) 'Birth and Death Registration in Massachusetts, II, The Inauguration of a Modern System, 1800–1849', *The Milbank Memorial Fund Quarterly*, 36:4, pp. 373–402; R. Gutman (1959a) 'Birth and Death Registration in Massachusetts, III, The System Achieves a Form, 1849–1869', *The Milbank Memorial Fund Quarterly*, 37:3, pp. 297–326; R. Gutman (1959b) 'Birth and Death Registration in Massachusetts, IV, The System Attains its Basic Goals, 1870–1900', *The Milbank Memorial Fund Quarterly*, 37:4, pp. 386–417; C. L. Wilbur (1916) *The Federal Registration Service of the United States: Its Development, Problems, and Defects* (Washington, DC: Government Printing Office); S. Shapiro (1950) 'Development of Birth Registration and Birth Statistics in the United States', *Population Studies*, 4, pp. 86–111.

29. G. R. Elton (1991) *England Under the Tudors*, 3rd ed. (London: Routledge); and on central–local linkages see M. Braddick (2000) *State Formation in Early Modern England c.1550–1700* (Cambridge: Cambridge University Press).
30. There is of course a large literature on the English Old (pre-1834) Poor Law. For important recent contributions see, for instance: J. S. Taylor (1989) *Poverty, Migration and Settlement in the Industrial Revolution. Sojourners' Narratives* (Palo Alto, CA: SPOSS); L. H. Lees (1998) *The Solidarities of Strangers. The English Poor Laws and the People, 1700–1948* (Cambridge: Cambridge University Press); P. Slack (1998) *Poverty and Policy in Tudor and Stuart England* (London: Longman); S. Hindle (2004) *On the Parish? The Micro-politics of Poor Relief in Rural England, c.1550–1750* (Oxford: Clarendon Press); L. Charlesworth (2010) *Welfare's Forgotten Past. A Socio-legal History of the Poor Law* (New York: Routledge).
31. P. Slack (1990) *The English Poor Law, 1531–1782* (Basingstoke: Macmillan).
32. Charlesworth (2010) *Welfare's Forgotten Past.*
33. Though Tate (1946) *The Parish Chest*, pp. 44–5.
34. Slack (1990) *The English Poor Law, 1531–1782*, p. 61.
35. J. R. Poynter (1969) *Society and Pauperism. English Ideas on Poor Relief, 1795–1834* (London: Routledge & Kegan Paul); A. Brundage (1978) *The Making of the New Poor Law: The Politics of Inquiry, Enactment, and Implementation, 1832–1839* (New Brunswick, NJ: Rutgers University Press); P. Mandler (1987) 'The Making of the New Poor Law Redivivus', *Past and Present*, 117, pp. 131–57; S. Basten (2006) 'From Rose's Bill to Rose's Act: A Reappraisal of the 1812 Parish Register Act', *Local Population Studies*, 76, pp. 43–62.
36. This was true, incidentally, not only in New England but of all of the 13 American colonies. In this chapter we will look only at the contrast with the New England colonies, which trended to follow the arrangements of New Plymouth (1642) and Massachusetts (1639 and its major revision of 1692–3), in making townships the local unit of government responsible for maintenance of the poor. The middle colonies tended to follow Pennsylvania in placing this in the hands of county authorities; while the crown colony of Virginia (and later South Carolina) followed English practice more precisely from 1641 in having a parish structure with the vestry administering the poor laws, answerable to justices of the peace. W. P. Quigley (1996) 'Work or Starve: Regulation of the Poor in Colonial America', *University of San Francisco Law Review*, 31, pp. 35–83, 48–54; W. I. Trattner (1999) *From Poor Law to Welfare State. A History of Social Welfare in America*, 6th ed. (New York: The Free Press), Chapters 2–3.
37. Kuczynski (1900) 'The Registration Laws in the Colonies of Massachusetts Bay and New Plymouth', pp. 1–5.
38. Quigley (1996) 'Work or Starve', pp. 71–6.
39. See the excellent study of exceptional surviving sources documenting the operation and experiences of 'warning out' from Rhode Island: R. W. Herndon (2001) *Unwelcome Americans. Living on the Margin in Early New England* (Philadelphia, PA: University of Pennsylvania Press).
40. C. H. Dayton (2012) 'Was the Warning of Strangers Unique to Colonial New England?' in D. J. Hulsebosch and R. B. Bernstein (eds) *Making Legal History: Essays on the Interpretation of Legal History in Honor of William Nelson* (New York: New York University Press); and C. H. Dayton and S. V. Salinger

(2011) *Warning Out: Robert Love's Search for Strangers in Pre-revolutionary Boston* (Boston, MA: Beacon Press).

41. Trattner (1999) *From Poor Law to Welfare State*, p. 27.
42. Herndon (2001) *Unwelcome Americans*, 'Introduction'.
43. Charlesworth (2010) *Welfare's Forgotten Past*, Chapter 3.
44. Gutman pointed out that 'the records of the individuals towns and cities in the State, compiled retrospectively by genealogical and historical societies, make it clear that in very few communities were as many as one-half of the births and deaths registered': Gutman (1958) 'Birth and Death Registration in Massachusetts, II, The Inauguration of a Modern System, 1800–1849', p. 373.
45. *Ibid.*, p. 374.
46. *Ibid.*

8

An Unusually Open Identification Number System: The Icelandic *Kennitala*

Ian Watson

Introduction

Over the last few years, heated debate has taken place about the best way to organize everyday identification practices in the Anglo-Saxon countries, and how to deploy identity cards, numbering systems and other forms of civil registration. By contrast, Scandinavian countries have had relatively stable identity regimes for several decades, with a degree of centralization that many in the Anglo-Saxon world would find intrusive. Based on personal numbering, systems like those common in the Nordic countries have attracted little attention from scholars of identification, who have tended to focus on physical tokens of identity, such as passports and identity cards, rather than semantic ones. The most accessible authoritative sources of information on identification numbers tend to be on the websites of national civil registration administrations.[1] There are a few exceptions, such as the sections on numbering in Pierre Piazza's book on the history of identity cards in France and Karl Jakob Krogness's article on the history of civil registration in Denmark.[2] A few other scholars have written about the role of identity numbers in privacy, security or taxation, and these scholars' principal interest is usually in those allied fields.[3]

Iceland's national identification number system, while broadly similar to the other Scandinavian systems, appears to represent something of an extreme even within the Nordic context. As such, in the context of an intensive case study this chapter presents the main features of the system concisely, and tries to suggest why it poses important questions and represents potential solutions for those advocating various identity solutions in other countries. It is based on the same research that resulted in a longer and more detailed historical article published

in 2010, and readers wishing more depth and full notes on sources are referred to this longer article.[4]

The *kennitala*: A brief overview

Each of Iceland's approximately 300,000 residents identifies himself or herself with a 10-digit number, called the *kennitala* (the word will be left untranslated in this chapter). This number is not kept secret, and it is not used as an authenticator, so in principle at least, there is no value to surreptitiously finding out someone else's *kennitala*. The first six digits of the *kennitala* transparently communicate the holder's birthdate. A database, easily accessible to the Icelandic public after logging in to any online banking website, allows Icelanders to convert from anyone's name to their *kennitala* or vice versa. The search engine also returns the person's legal address. Any banking transaction in Iceland, including transfers between private persons, must list the recipient's *kennitala*, which explains why bank websites host the database. But the *kennitala* is also routinely used in transactions with many other institutions, such as corporations, schools, hospitals and the state bureaucracy.

In these contexts, the *kennitala* is the standard way of identifying oneself, and doing so is efficient and relatively uncontroversial in Iceland. One can say that the *kennitala* is effectively an alternative name, which – like a personal barcode – is composed of numbers rather than words. We all know that nicknames are used in certain contexts where full names would be inappropriate, and vice versa. Similarly, the author (like other Icelanders) uses his small daughter's *kennitala* to identify her to the receptionist at the doctor's office, but would never do so in talking about her with a guest at home.

History of Icelandic numbering systems

The *kennitala* was first created as an eight-digit number in the early 1950s, when Icelandic civil registration was centralized in a single office to facilitate more effective civil record keeping, a reliable database for public services and more efficient statistical collection. More specifically, the *kennitala* was a by-product of the establishment of Iceland's National Register (Ic. *Þjóðskrá*)[5] on 1 July 1952, which involved the creation of a punch card for each person (Figure 8.1).[6] While not a primary aim of the system, the compilation of the card index spurred the development of a unique, formal, numerical identifier, which allowed unambiguous

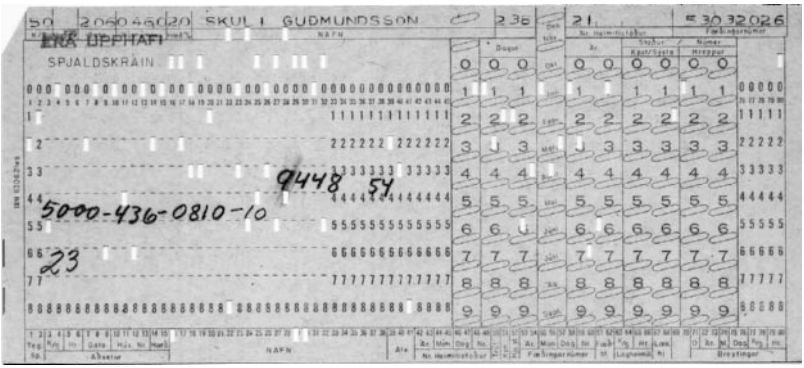


Figure 8.1 Individual punch card from National Register of Iceland

reference to a particular individual. Creating a personal identifier is a nontrivial semantic design task, and was given careful thought. A person's name is not sufficient as a unique identifier, because many people have the same name. Name and address combined is an impractical solution, because addresses change when people move, and there are sometimes two people of the same name residing at the same address. A name, plus a number further identifying the individual among all the holders of that name (e.g., Jón Jónsson 1) would encounter the problem that identifiers would be of widely varying length, and people who change their names would be stuck with an identifier based on a name they did not bear.

Possibly influenced by Swedish approaches (Sweden's *personnumer* had been created in June 1946), Iceland adopted a system organized around birthdates, which could be numerically expressed and did not change over the life course. The first six digits of the *kennitala* were formed from its holder's birth date (in the form *ddmmyy*). The next two digits distinguished the holder from all others born on that particular day. In 1964, new computer hardware allowed the addition of a check digit, which was added to the end of the *kennitala*, and in 1987 the century number from the birthdate was added as a tenth digit. Thus the author's *kennitala*, 180170-2359, reflects that he was born on 18 January 1970; the number 23 differentiates him from others born on that same day, and the 5 is a check digit. While not an expressed intent of the National Register, the identification of individuals by this unique sequence of numbers spread far beyond its initial use on

punch cards and printouts, and became a lasting legacy of the database's designers.

This notwithstanding, from 1959 to 1987, a second national identification number was actually in more common use in Iceland than the *kennitala*. Called the *nafnnúmer*, or name number, it was assigned so that a stack of computer cards sorted in numerical order would also be arranged in alphabetical order by name.[7] As the card-sorting machines of the time could sort by number more quickly than by letter, this speeded up many basic processing tasks. The eight-digit name number could only be assigned after each person received a name. It is customary for Icelandic parents to wait several weeks after birth before naming their children. The health system, therefore, used the *kennitala* to identify patients, as it could be assigned at birth. In fact, the name number was not assigned until the age of 12. Even though children lacked a name number, it became the most common way of identifying Icelanders throughout the 1960s, 1970s and 1980s. Moreover, with the creation of Iceland's corporate register (Ic. *fyrirtækjaskrá*) in 1969, companies were assigned name numbers as well.

Just as the *kennitala* was once linked to a physical token (the National Registry's index cards), the name number was enshrined in physical form. Starting in 1965, all Icelanders have had the right to receive a very simple identity card from the government, initially at the age of 12 and currently at the age of 14. When introduced, the idea was that Icelanders could prove their age or identity with these cards, which listed the holder's name number and birth date. However, although they undoubtedly helped to normalize numbering systems and to raise popular consciousness of them, the cards have largely fallen out of use and many people do not possess one. In practice, Iceland today is a country without any official physical identity authentication device. Most Icelanders use bank debit cards or driver's licences (both of which carry a photograph as well as the holder's *kennitala*) for authentication purposes.

Ironically, while the name number (unlike the *kennitala*) was designed for its purpose rather than emerging as a by-product of another system, the name number apparatus contained problems and tensions that ultimately caused it to fail. The fact that the system required a correspondence between alphabetical and numerical sequence quickly led to an exhaustion of the available numbers (in general, numbering systems that require a robust mapping principle between number and referent become exhausted more quickly).[8] The system was also beset by inefficiencies, security issues and ethical problems. Whenever

anyone had their name legally changed, this required a change to their name number as well (a loophole that was exploited by those wishing to eliminate their financial histories), while the fact that newborn children did not receive a name for some days or weeks following their birth forced the Icelandic health care system to adopt the birth-based *kennitala* in the interim, meaning that a double numbering system was effectively in operation. The practice of reusing the name numbers of deceased individuals (necessitated by the chronic shortage of available numbers) also led to several delicate incidents in which the living and dead were mixed up. By the mid-1980s these inherent weaknesses had caused the situation to become dire.[9] In 1987, notwithstanding the expensive administrative and technological retooling involved, the name number was officially dropped and from then on the *kennitala* has been used for all identification purposes. The name number is now largely forgotten.

The *kennitala* has always been public information. Starting in the winter of 1953–4, Iceland's National Registry produced annual lists of the inhabitants of each municipality, and from 1955 (at least in the case of Reykjavík) they were printed and could be purchased by the public.[10] These lists were sorted by address and included the name and *kennitala* of each resident as well as other information such as birth place, name number, marital status and even religious affiliation (which was used to calculate state support for each religious organization). The last paper copies of these lists on file at the National Library are from 2002, and those wanting the information now typically purchase it as a database in electronic form from one of several suppliers. For a few years after the arrival of the internet, the National Registry's website also allowed the public to search the database.

Discursive dimensions: Pragmatists and protectionists

Notwithstanding the widespread official and social adoption of the *kennitala* from the late 1980s onwards, as consciousness of data protection and privacy issues grew in Iceland, the system became more controversial. Discussion peaked in the first few years of the twenty-first century, with a particular concentration of debate between 2000 and 2005 – manifested in meetings, public debates and parliamentary bills – when the rise of the internet promoted a new range of concerns about the dangers of linked, publically accessible data and other computer-related privacy issues. The opinions expressed can be broadly arranged

between two poles, thus reproducing (within a policy setting) the range of scholarly stances detectable within the emergent field of identification studies. One pole, what we might call the 'protectionist' view, saw the *kennitala* as a threat to privacy. The other pole, what might be termed the 'pragmatic' view, saw the *kennitala* as a practical tool, which had not in fact spawned the kinds of problems that the protectionists feared it could.

Sigrún Jóhannesdóttir, the head of the Icelandic Data Protection Authority, and Oddur Benediktsson, a professor of computer science, were the most vocal proponents of protectionist viewpoints in Iceland during this period.[11] The most common line of criticism drew attention to the numbers as one of the tools by which larger and more dangerous databases can be assembled out of smaller ones. The argument here is that precisely because the *kennitala* (or its equivalent in other countries) is a standard, publicly available identifier that can be used by any database, it is actually too powerful a tool. Specifically, by having a standardized key like the *kennitala* for databases focused on people, it becomes a very easy programming task to combine multiple databases. Governments and corporations can then assemble undesirably thorough amounts of information on people, including sensitive data on their health or shopping habits. This information can be used for socially malignant purposes, such as covert surveillance, racial discrimination, discriminatory pricing or security measures based on behavioural profiling. Public policy should, therefore, work to limit the ability to create such databases. According to this line of thinking, the social imperative is *not* to make personal identification easy and open, but rather to scramble and defeat (or at least hinder) any expanded capability to link standardized identifiers with data about people. One way to do this is simply to limit use of a standardized identifier, even though it is the information contained in databases, not the identifier *per se*, that is a threat.[12] There were also ethical concerns. The transparent inclusion of the birth date in the *kennitala*, it was argued, forces Icelanders to disclose their birth dates even in situations where they might not want to, raising the spectre of age discrimination. The open posting of everyone's name and *kennitala* on the National Registry's website was also criticized. Some said that Icelanders simply make use of the *kennitala* in too many contexts, such as on store credit slips or gift certificates.

By contrast, Hallgrímur Snorrason, then head of Statistics Iceland (of which the National Registry formed one department), was the most

vocal proponent of pragmatic viewpoints.[13] These practically oriented statements tended to focus on the value of the *kennitala* within public administration. They downplayed the danger of the combination of databases, and suggested that the main point of contention should be the underlying issue of database security rather than the *kennitala per se*. They pointed out the practical advantages of having the birth date in the *kennitala* (especially in light of the failed name number, which highlighted the drawbacks of arbitrary numerical systems), and referenced the traditional openness about ages and birth dates within Scandinavian culture. Some commentators, pointing to the low rate of identity theft in Iceland, suggested that the strength of the Icelandic system lay precisely in its openness, transparency and ready accessibility: the *kennitala* is public information, and is not used to authenticate identity, so knowing it has none of the kind of value that comes with knowing a secret key or code.

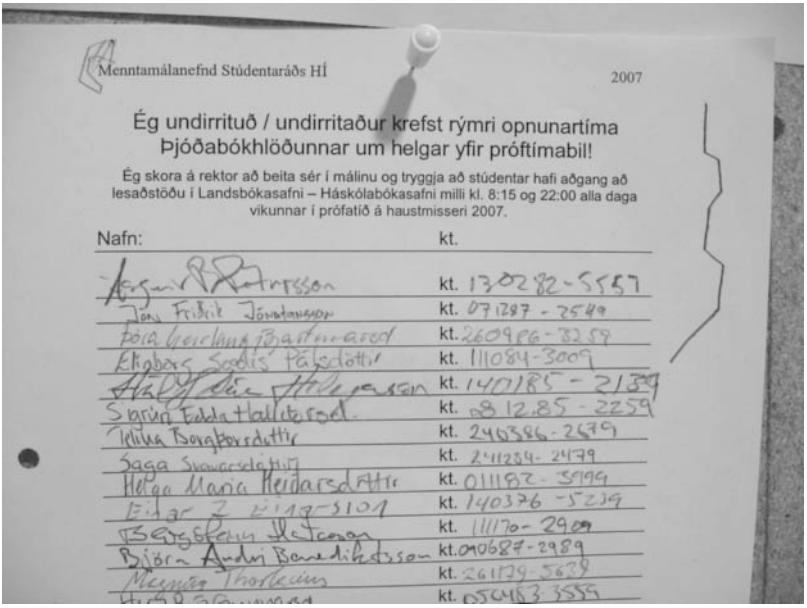
Current status

The current legal status of the *kennitala* represents a compromise between these two extreme positions. In May 2000 the Alþingi, Iceland's parliament, passed an updated law on data protection (77/2000). This new law brought the *kennitala* within its remit, as directed by Article 8, paragraph 7 of EU Directive 95/46/EC. Article 10 of the law specified that '[t]he use of the *kennitala* is permitted if such use has an objective purpose and is necessary to ensure certain personal identification. The Icelandic Data Protection Authority may forbid or require the use of the *kennitala*.' This limited use of the *kennitala* to situations where its use was 'necessary' and gave the Icelandic Data Protection Authority the discretionary authority to decide what uses are in fact necessary. The Data Protection Authority has since issued several rulings and opinions on *kennitala* use in particular cases, although they have not had far-reaching effects.

Although public access to the National Registry's database of names and *kennitölur* has been preserved overall, new restrictions on online access were also introduced in 2004. The database was removed from the National Registry's website, and – in an interesting example of the involvement of the private sector and financial institutions in sustaining identification regimes – is now accessible primarily on banking websites, after logging on, which effectively limits access to those in possession of an Icelandic bank account. The search parameters have been limited to name and *kennitala*, and the fields returned are limited

to name, *kennitala* and address (previously, for example, one could search by address, and the results included the name of each person's spouse).

Such is the ingrained nature of the *kennitala* that the legal and ethical discussions over the past ten years have actually resulted in relatively few changes in its day-to-day usage in Iceland. In everyday life, use of the *kennitala* continues more or less as it has customarily within every sector of Icelandic society. Icelanders still give out their *kennitala* freely and frequently in many situations. For example, a petition for increased opening hours at the University of Iceland library, tacked up in a common area of the university in 2007, included spaces for each supporter to write their name and *kennitala*; and everyone did just that (Figure 8.2). Students commonly list their *kennitala* on written university work. The *kennitala* still incorporates the birth date, and a parliamentary bill to end use of the birth date in the *kennitala* twice failed to make it out of committee. Icelandic babies receive a *kennitala* long before their parents are asked to decide what the child's name will be.


Menntamálanefnd Stúdentaráðs HÍ 2007

Ég undirrituð / undirritaður krefst rýmri opnunartíma Þjóðabókhlöðunnar um helgar yfir prófatímabil!

Ég skora á rektor að beita sér í málinu og tryggja að stúdentar hafi aðgang að lesaðstöðu í Landsbókasafni – Háskólabókasafni milli kl. 8:15 og 22:00 alla daga vikunnar í prófatíð á haustmisseri 2007.

Nafn:	kt.
[illegible]	kt. 130282-5557
[illegible]	kt. 071287-2549
[illegible]	kt. 260986-3259
[illegible]	kt. 111084-3009
[illegible]	kt. 140185-2139
[illegible]	kt. 081285-2259
[illegible]	kt. 240386-2579
[illegible]	kt. 241284-2479
[illegible]	kt. 011182-3599
[illegible]	kt. 140376-5239
[illegible]	kt. 111170-2909
[illegible]	kt. 040687-2989
[illegible]	kt. 261174-5629
[illegible]	kt. 050483-3559

Figure 8.2 Petition to the University of Iceland Library

Conclusion

The Icelandic case raises a number of important research questions. Why has this kind of open system worked out in Iceland? Is it something that other societies should take notice of? Is there, paradoxically, a kind of security in the openness of Iceland's identification numbers? Or is the success of the Icelandic system exceptional, perhaps due to Iceland's small size, and not likely to be reproducible elsewhere? Interestingly, India is currently introducing an identity system in which, like Iceland, the number appears to play a more important role than physical tokens like identity cards.[14] There are several potentially fruitful lines of enquiry. One is to examine the Icelandic system comparatively, in the context of Scandinavian identity systems in the twentieth century. Each of the Scandinavian countries has a similar system, although they have developed somewhat differently over the years; by contrast, number schemes are far less common in other European countries, and in some (such as Germany, Hungary and Portugal) are actually constitutionally forbidden. Another interpretative strategy is to try to further isolate the size-related and logistical factors that might influence identity policy in modern states. For example, Iceland has no real secret service, no military, no witness protection programmes, and typically no more than two degrees of social separation between any two individuals in society, who are likely to be no more than sixth or seventh cousins and whose genealogies are recorded and easily accessible. Are Iceland's taken-for-granted social intimacy and limited need for concealed identity prerequisites for the success of an open identity regime?

From a linguistic, semiotic and anthropological perspective, the Icelandic case is of interest as the human society, which has pursued the development of a public, numerical system of names to its logical conclusion. Other countries have numbers for people too, but not even the other Scandinavian nations have gone as far in making those numbers open and part of everyday personal reference, and thus bringing about a fundamental change in how people state who they are. Names, qualified in various ways, have for centuries been the most common way of referring to people. Different names may be used in different circumstances, so that the same person might have a 'normal' name (John Johnson), a 'formal' version used on official documents (John Robert Johnson) and an 'informal' variant used among friends (Johnny). The increasing use of numbers in Iceland, and also elsewhere, leads one to ask whether they are simply taking their place

with other names among the variety of ways in which people refer to themselves. According to this way of thinking, the *kennitala* is a name that one uses in some situations, usually those where exact personal reference is important, and not, for example, among friends. It is also the first name that Icelandic children receive, on the day of their birth or the day after, whereas they often do not receive their traditional first name until some weeks later and nicknames may not be determined until a child is several years old. Another way in which the Icelandic *kennitala* system is similar to naming is that Icelandic *kennitala* is not normally used as an authenticator. This way of looking at the *kennitala* downplays the difference between naming and numbering, and emphasizes the continuum of ways in which humans refer to themselves.

A final line of enquiry would examine the discourses surrounding and attitudes towards data protection in Iceland over the last few decades. In speaking informally with those whose experience with identity matters is primarily in the context of larger countries, the author has sometimes encountered a scornful attitude towards the Icelandic system. One called the Icelandic system 'ghastly'; to some privacy advocates, it seems to go against all the things that they have been fighting for. This speaks to larger academic discourses, which tend to regard public numbering systems as a tool of state control over individuals and, in turn, may speak critically of them on those grounds, and regard them historically as a potentially unnecessary extension of state power.[15] Within such analyses, data protection laws and data protection authorities are configured as protecting the man or woman in the street against forces of state and corporate authoritarianism; they are a way of defending rights, freedoms, democracy and civility.

In Iceland, public opinion is, if anything, the reverse. There is a greater sense of how governments, in creating national identification numbers and every other kind of number, might play a crucial role in introducing technologies that have considerable benefit for citizens but could not be implemented without the development of standardized semantic systems; in short, these acts of cognitive coordination are essential for 'getting things done'. Indeed, in many such cases (say, telephone numbering plans, utility meters or IP addresses), the state is not the actor, or at least, was not the original actor. Moreover, a number of prominent figures have turned protectionist arguments on their head by identifying the Data Protection Authority itself as an extension of state authoritarianism and a handmaiden of corporate power, supposedly complicit in making state institutions and business

life opaque and in shackling free expression in journalism and scholarship. According to Herdís Þorgeirsdóttir, a professor of media law, the Data Protection Authority has failed to make sure that privacy concerns are balanced with guarantees of basic free speech rights for journalists and the media (as directed in section 37 of the preamble to Directive 95/46/EC).[16] Retired newspaper editor Jónas Kristjánsson, rated as Iceland's most-read blogger as of early 2012,[17] has since 2005 written close to a hundred scathing blog entries about the authority, describing it as 'democracy's Enemy Number 1' and 'a cloak for those who have skeletons in their closet and want to hide what they have done', and claiming that it 'fosters secrecy, the soil that corruption grows from' and 'wants to cover up the workings of society so the public can't see in'.[18] In 2000, then-MP Bryndís Hlöðversdóttir suggested on the floor of Parliament that work on updating the data protection laws had been deliberately delayed so as to permit passage of a law on health databases that stood to benefit a business with close ties to the then-majority government.[19] According to this view, what is really important and necessary in Iceland is not greater privacy and secrecy, but rather more transparency. It is not surprising, then, that many Icelanders might see the *kennitala* system – a prime example of openness and transparency in Icelandic society for more than fifty years – as something to be protected and cherished rather than dismantled.

Notes

1. For example, *The personal identification number*, section 4.2 in 'The civil registration system in Denmark' (2001), available on the website of Det Centrale Personregister [URL: http://www.cpr.dk].
2. P. Piazza (2004) *Histoire de la carte nationale d'identité* (Paris: Odile Jacob); K. J. Krogness (2011) 'Numbered Individuals, Digital Traditions, and Individual Rights: Civil Status Registration in Denmark 1645 to 2010', *Ritsumeikan Law Review*, 28, pp. 87–126.
3. For example, P. N. Singer and L. Dodd-Major (20 September 2004) 'Identification Numbers and U.S. Government Compliance Initiatives', *Tax Notes*, 104:13.
4. I. Watson (2010) 'A Short History of National Identification Numbering in Iceland', *Bifröst Journal of Social Science*, 4, pp. 51–89.
5. In this article, the Icelandic word *Þjóðskrá* has been translated in two different ways: as 'National Register' when it refers to the official list of Icelandic residents, and as 'National Registry' when it refers to the institution responsible for keeping that list. *Nafnnúmer* has been translated as 'name number,' but the word *kennitala* (pl. *kennitölur*) has been left untranslated.

6. The best published source on the early history of the *kennitala* is K. Tryggvason (1964) 'Hagstofa 1951–1964', *Hagtíðindi*, 49, pp. 44–57.
7. A principal source on the introduction of the name number is the report attached to the parliamentary bill proposing the national identity card system, published in *Alþingistíðindi* (85. löggjafarþing, 1964–1965, þingskjal 302, section A, pp. 950–9).
8. See I. Watson (2005) 'Cognitive Design: Creating the Sets of Categories and Labels that Structure Our Shared Experience', PhD dissertation, Rutgers University, Newark, NJ, section 4.4.
9. The situation in the mid-1980s is captured well in a newspaper article by G. Guðlaugsdóttir (21 April 1985) 'Þjóðskráin er undirstaða stjórnsýslu í landinu', *Morgunblaðið*, pp. 18–19, and in Hallgrímur Snorrason's lecture 'Endurskipulagning Þjóðskrár,' held at a meeting of Skýrslutæknifélag Íslands on 1 October 1985 [URL: http://hagstofa.is/lisalib/getfile.aspx?itemid=1733].
10. The first printed register for Reykjavík is titled *Íbúaskrá Reykjavíkur 1. desember 1954*. It was issued on 1 April 1955.
11. See, for example, Sigrún Jóhannesdóttir's comments quoted in 'Persónuvernd berst aukinn fjöldi kvartana,' *Morgunblaðið*, 4 January 2004, p. 11; O. Benediktsson (11 June 2005) 'Verndun persónubundinna upplýsinga', lecture at the conference *Stjórnarskrá til framtíðar*, sponsored by the Constitutional Committee, Reykjavík [URL: http://www.stjornarskra.is/media/stjorn_erindi/ob-fridhelgi.pdf].
12. Outside Iceland, various scholars have expressed this same kind of concern about databases, such as O. H. Gandy (1983) *The Panoptic Sort: A Political Economy of Personal Information* (Boulder, CO: Westview); D. Lyon (ed.) (2003) *Surveillance as Social Sorting: Privacy, Risk, and Automated Discrimination* (London: Routledge); and R. Anderson et al. (2009) *Database State* (Water End, York: Joseph Rowntree Reform Trust). The link between databases and identifiers is made explicit in Roger Clarke (1994) 'Human Identification in Information Systems: Management Challenges and Public Policy Issues', *Information Technology & People*, 7:4, pp. 6–37.
13. See, for example, Hallgrímur Snorrason's comments quoted in H. Snorrason (7 January 2004) 'Ekki hefur orðið vart misnotkunar hér', *Morgunblaðið*, p. 6.
14. One brief summary of this system, now called Aadhaar, is M. Krakovsky (January 2011) 'India's elephantine effort', *Communications of the ACM*, 53:1, pp. 22–3.
15. Two titles that exemplify this stance are C. Watner and W. McElroy (eds) (2004) *National Identification Systems: Essays in Opposition* (Jefferson, NC: McFarland); R. Sobel (2002) 'The Demeaning of Identity and Personhood in National Identification Systems', *Harvard Journal of Law & Technology*, 15, pp. 320–87. In the realm of house numbering, Anton Tantner considers such questions in A. Tantner (2007) *Die Hausnummer: eine Geschichte von Ordnung und Unordnung* (Marburg: Jonas Verlag).
16. H. Þorgeirsdóttir (24 July 2005) 'Þröng skýring á fjölmiðlafrelsi og vafasamt eftirlit opinberrar stofnunar?', *Morgunblaðið*, pp. 20–1. See also the response from Data Protection Authority staff member Þ. Sveinsson (21 August 2005)

'Um mörk friðhelgi einkalífs og tjáningarfrelsisins: Athugasemdir við grein Herdísar Þorgeirsdóttur', *Morgunblaðið*, pp. 18–19.

17. According to the Icelandic blog portal blogg.gattin.is, January 2012.
18. Author's translation of blog entries dated 7 February 2008, 18 May 2010 and 30 May 2010 and archived on Jónas Kristjánsson's website [URL: http://jonas.is].
19. Alþingi, 125. löggjafarþing, 1999–2000, 58. fundur (8 February 2000), comments by Bryndís Hlöðversdóttir at 14:26. Archived at the following address [URL: http://www.althingi.is/altext/125/02/r08142609.sgml].

9

From Custom to Civil Status Registration: The Anthropology of Kinship and the Rule of Law

Claudine Dardy

Introduction

Our civil registration system, based on birth records, is not as widespread as one might expect. At a 2009 colloquium commemorating the 60th Anniversary of the International Commission on Civil Status, it was estimated that 50 million newborn babies per year go unregistered globally.[1] During that same year, the International Commission on Civil Status and its experts – lawyers, theoreticians, and field practitioners from civil registration offices – noted that a considerable discrepancy remained between fully computerized systems, such as that used in Britain, and those employed in other regions such as Africa. Participants agreed on the necessity of accounting for such factors as unstable marital situations, successive marriages, the status and recognition of children, forsworn recognitions that leave children vulnerable to rational or non-rational decisions from adults, and to consider the extra complexity created by new modes of procreation – artificial procreation, surrogate mothers, and so on. In Brussels, the manager of the civil registration office, remarked that 'young native couples marrying for life are a thing of the past: 75% of marriages nowadays have specific features – intermarriages, remarriages, and so on'.

Yet, as early as 2000, UNESCO had launched ambitious campaigns with a humanitarian agenda aiming at global recognition of children's rights, including in particular the right to bear a name and enjoy a nationality. The point was to provide governments with an incentive for civil registration, understood as an indispensable basis for child protection against all forms of abuse – exploitation, prostitution, and lethal violence. Recent research and fieldwork in law and social anthropology[2] has helped define various aspects of civil status and its evolution as a *process*, fostering a better understanding of the issues raised by its globalization. It appears

that civil status can be productively researched and appreciated from the perspective of one major feature, namely the tension between constraint, obligation, and control on the one hand, and protection, enablement, and rights on the other. Nation states need to implement what might be called an official civil registration process, with an aim to identify, list, and count individuals. This involves not only keeping up-to-date records of population, but also identifying individuals, guaranteeing their 'traceability' through civil registration, and ensuring that the major events of their lives (birth, marriage, death) are properly recorded, so as to enable the delivery of record-based documents, proofs, written legal traces whose possession, in turn, conditions entitlement to social benefits. The recording of births, marriages, and deaths, however, cannot be reduced to the mere mechanical act of scripting out preexisting identities on paper. Civil status, as it has developed in European cultures over several centuries, relies on the deployment of specific tags – last name, first name, age, gender, birth place – whose cumulative effect is to design an abstracted *identity model*. It is an individual-centered mode of identification, which takes for granted the universality of such notions as 'last name' or 'birth place', and which may condition the granting of citizenship (*jus soli*).[3]

Colonization has been instrumental in spreading and globalizing the civil status system. Those who were colonized often were identified separately, as subjects instead of full citizens, so many insights could be gained from systematic, comparative study of different experiences of transitions to independence. Colonial authorities established distinct, minimalist indigenous civil registration systems designed to tackle the daily management and administration of these populations. In this article my intention is to explore the effects of globalization on issues of civil status and identity. After analysing the different perspectives of anthropologists and lawyers who have approached these themes, we will interrogate how the application of the administrative concept of 'traceability' to individuals by the civil state lends itself to hidden ideological agendas, before examining various contexts whose history and circumstances under colonization and decolonization allow us to observe how nation states arrange and appropriate civil registration systems in relation to customary and written forms of identification.

Civil status registration: Some legal and anthropological perspectives

An ambitious first step in international benchmarking was Pousson-Petit (2002), a book by legal scholars which followed on from several shorter attempts at synthesis by international organizations such as UNESCO.

Works published in 2008 and 2009, drawing on both anthropology and law, were based on surveys that sought to capture the relationship between people and their civil identity, which is rarely perceived for what it is first and foremost – that is, the building of a legal persona – but rather as pertaining to the intimate, personal sphere.

This picture of civil status was reinforced by the emphasis placed on its psychological dimensions. Lawyers were prone to stigmatize what they considered to be the loss of the pure civil registration function in favour of a tendency to assign civil status a psychological, or even therapeutic, role in emotional relationships. For example, legal scholar C. Neirinck sees such ameliorative applications as an unhelpful deviation, opening the floodgates to individual and family psychology, and distracting from the primary objective of civil status to situate individuals in society. Hence, mentioning a child as stillborn in civil registries makes no sense at all, since no actual possession of status is linked to this event. However, the parents' request is usually granted on psychological and therapeutic grounds, to help them 'come to terms with their loss'. Two joint events – birth and death – are thus registered simultaneously in the *livret de famille* (family record book). This concession, however, far from being only therapeutic or symbolic, can actually bring entitlement to social benefits (maternity or paternity leave in particular). In a society governed by the rule of law – that is, bestowing rights on people – the figure claiming rights is ubiquitous, lurking in the background of virtually any so-called 'symbolic' process.

By contrast, the anthropological approach (as exemplified by the work of A. Fine) questions the mutations of self-awareness induced by developing a civil identity through the aforementioned tags: family name, place and date of birth, gender, and so on. Whereas legal scholars generally consider that taking the psychological and symbolical dimensions into account was obviously corrupting research, socio-anthropologists tend to focus precisely on this very dimension, taking a particularly keen interest in the socio-legal concept of recognition, which highlights the social dimension of family relationships. Technological advances in identification, such as DNA testing, are interpreted as a threat to these social relationships, which serve as the basis and foundation of all systems of kinship and filiation. Such is the diagnosis of anthropologist F. Héritier, who (building upon a structuralist perspective) contends that societies, combining a common biological and genetic background in infinitely varied ways, implement their own specific modes of identification which socially position and designate individuals in relation to each other.

These studies take into account some advances in body alteration – sex-change surgery, surrogate motherhood, solutions to gender ambiguity

cases, and transexuality. They also report a surge of the biological in the issues raised, and a growing concern for the body, not just in terms of appearance, but also as a resource for identification. However, resorting to the body – appearance and race in particular – for identification also served young mixed race subjects during the Indochina era. As E. Saada has shown, the French state, substituting for unknown fathers, wished to cater for the offspring of metropolitan French men, going as far as to systematically track children, sometimes even estranging them from indigenous mothers and caretakers. The idea was that any child whose appearance betrayed even a single drop of European blood should be entitled to education and French citizenship status – which sometimes entailed the establishment of a racial certificate.[4] From her observations on the mixed-blood category, Saada thus postulated the emergence of 'state control trends in filiation relationships' (*étatisation des relations de filiation*).

The anthropologist F. Héritier, who acts as an expert for several bodies and commissions, notes with some displeasure a surge in biological technologies following recent technological advances in identification, DNA testing in particular.[5] Proof of filiation is sought in biological traits, implying that biological kinship gets substituted for social kinship, which is based on the recognition and will of individuals and groups. Her diagnosis derives from the measures put forward by Dean Carbonnier in 1981,[6] whereby filiation, as proven biologically, became opposable to the other three modes of filiation – marriage, recognition, and possession of status – a process which in her opinion ratified the 'biologization of filiation relationships'. Research in the anthropology of kinship, however, shows that while some biological common ground does exist in filiation and kin relationships, societies have woven an incredibly rich network of combinations over the years, with infinite variations brought about by diverging denominations and hierarchization. Indeed, according to Héritier, modern societies must preserve this creative capacity while integrating various technological advances. We thus encountered both state-controlled filiation relationships, for instance when the State acts as a surrogate father in the name of the entire French nation (as shown by Saada in the case of Indochina), and biologized filiation relationships, solidified in new legal arrangements, as observed by Héritier.

Traceability: The importance of traces in administrative culture

The notion of traceability, equally applied to people and things in modern societies, contributes to an ideological shift in identification issues,

since traceability introduces both the idea that everyone is following a unique path with a reliable, proven origin – a linear individual pattern of evolution, understood as a road – and the visibility thereof.[7] Traceability could first be understood as some kind of ideal for the authorities, a power and control tool aimed at managing, administering, and even policing:

> Tracing people has been a longtime dream of political authorities, hence such concepts as the name, civil status, passport, place of residence. Managing souls, behaviours, and spirituality was one of the main purposes of Canon law: renewed – but unchanged – by electronic and computer means, this project is shared by many authorities other than the State, and the more it spreads, the harder it is to apprehend and control. This dispersion, rather than the phenomenon itself, is the true innovation [...] Identifying is not enough, it is now possible to retrace peoples' steps, reconstruct their behaviours, intentions, tastes, destinations, and projects.[8]

Such dispersion would display the multiplicity of the traces we produce, as well as their fragmented modes of organization.

While administrative culture evolves, it is not unlikely that the mental patterns and symbolic representations it once helped create settle more deeply and durably – such as, for instance, the idea of a unique correct origin leading to some straight, one-way road to be followed without deviation thereafter. In identity terms, this translates into imposing this idea of the traceability of individuals[9] – knowing where they come from and what their origins are, and assuming that only this reverse journey may justify their being. This long-term traceability, however, is complicated by the new surname transmission rules in France – 2005 provisions about surname transmission make it possible to choose between both parent's names.

This concern with traceability, when applied to individuals, is not entirely harmless: the underlying idea is that people are supposed to know where they come from in order to know where they are going. This attitude clearly excludes all individuals with uncertain origins, those born anonymously, for example – a particularly scathing prejudice. The main issue with abandoned children is that they are nameless, that is, without any identifiable filiation, and as such have always been treated unfavourably, as evidenced by historical research.[10] Systematic naming strategies designed to fix the problem – such as attributing first names in lieu of last names – have been denounced as equally stigmatizing.

However, 'nameless' people and people with a stigmatizing name have become a rare species ever since their adoption was made possible in 1923. The right to know one's origins has triggered heated discussion, permeated by issues such as secrecy, which files to transmit, and how to satisfy the need for bodily and biological information. While respectful of mothers' right to an anonymous delivery, the 2002 provisions relating to anonymous childbirth attempted to conciliate two rights: the children's right to know their origins, and the biological mothers' right to anonymity. Background issues include our relationship to the body, to biology and, more recently, to genetics.

As can be seen, the notion of traceability encompasses several ideas: authorities are concerned with controlling, managing and administrating the population; transparency of people's origins and background is an issue as well; and finally, the concept of roots is introduced – that is, knowing where one comes from, biologically and sociologically as well as geographically. These elements can morph into signs revealing an ideology of traceability, ultimately leading to legal claims. For instance, during a radio interview, an adoptee from Rouen, who is the president of an association defending the right to access information about one's origins, did claim the right to know, even when incest or rape is involved. She advocated 'traceability', which to her is wrongly associated with animals, and considered herself an *apatrid* – a stateless person lacking home territory – definitely mixing up psychological considerations, state intervention and legal claims. Another interviewee, fathered by an anonymous sperm donor, said she felt intrigued by her paternal origins, a decisive piece of information in her opinion, given her budding career as a cellist. If musical talent stems from genetic material, it might strengthen her calling.

Grafted on to this ideology of traceability – combined with a feeling that truth emanates from the body, from genetics rather than from social reality – is the current craze for genealogy, whose deeply rooted trees embody a family-based representation of identity. In modern societies, as modern kinship becomes diversified, and/or undergoes a process of dissociation between social and biological or even genetic parenthood, the latter is considered far more reliable and truer than any other: endorsed by science, it is independent, as a construct, from the will of individuals. The law acknowledges it and sometimes sides with it, hence the importance of ethics committees and commissions, especially as traditional-marriage parenthood is joined by new forms of partnership – civil partnerships such as PACS (*Pacte civil de solidarité*), gay couples, split and blended families, and so on – deploying modes

of procreation and filiation that minimize the potential for dissociation between biological/genetic and social kinship.

However, maybe this discourse about the quest for origins needs to be toned down, and certainly not reduced to some submissive stance towards the ideology of traceability. Irène Théry, having surveyed individuals in search of their own biological kinship, argues that, far from being driven by the will to reject their social parents – their adopters – they simply and legitimately feel intrigued.[11] Moreover, modern parenthood systems should be able to integrate a number of filial relationships, as introduced by new modes of procreation – the privilege granted to social parents should not disqualify or discourage offspring from knowing and possibly socializing with progenitors, who should be clearly designated. Such is the position defended by a gay father whose child, raised in a same-sex parenting environment, was born via a chosen and paid surrogate mother whom the father intends to introduce to the child.

Wishing our modern kinship systems were more flexible is consistent with Héritier's position: a kinship system must retain some capacity for invention as a token of vitality. Moreover, modern parenthood needs to be considered outside the social/biological antagonism, Théry further argues. Jeanne Edwards, in the same book,[12] questions the representation of the biological, which remains quite unclear for many surveyees, especially those who have resorted to medically assisted procreation: here, the biological and the genetic are felt to either overlap or stand apart, depending on the precise situation, both in terms of physical likeness and character.

Civil status in the computer era: Distance and proximity

The surveys mentioned above explore the impact of civil status on personal representations of the self, on 'self-perception', and it appeared that civil status was first and foremost perceived in terms of its personal, intimate attributes. This result supports the idea that individuals internalize some form of certified, documented existence, as if the self was endorsing identity tags that have been chosen on its behalf. The dimension of control, administration and management by the state and the authorities is clearly perceived as such in matters of immigration and migration flows control – translating into the 'undocumented immigrant' (*sans papier*) victim category.

By permitting distant operations and removing the necessity to queue at an actual counter, the computerization of civil status introduces the

technical option of a centralized, remote electronic agency, such as the central civil status department located in Nantes, whose activity would no longer be restricted to foreign-based French nationals. Indeed, realizing both the symbolic significance of civil status and how important it is for a town to know about events in the lives of its inhabitants, some municipalities have felt the need to provide interactive terminals that enable people to directly procure various official certificates (birth, marriage, death), somehow asserting the social and integrative value of civil status when, instead of remaining an entirely formal state function, it meets the needs of individuals and their families. Civil status appears as a service performed at the community level, creating links between individuals – as both locals and nationals.

The self, the state and the rights claimant

Still, on a daily basis, being fully identified usually means access to citizenship and freedom of movement, which is associated with it, as well as to individual entitlement. Identifying individuals enables the state to manage, administer and levy taxes. The issue of civil status is particularly acute during elections. State societies are strongly encouraged to function democratically and to guarantee access to universal rights for all. This 'democratic society' label is a necessary condition for participating in international exchanges and recognition. Population registries do not necessarily overlap with civil status registries. When authorities compile a census and compute statistics, building categories in the process, the goal is different in principle from that of civil status registration, which is primarily concerned with individuals – and that is precisely the prevalent perception in the aforementioned survey.

How far should official civil status identification go in terms of collecting information? Sociologist Alain Touraine, in his keynote address to the 2009 Colloquium marking the 60th Anniversary of the International Commission on Civil Status, argued in favour of gathering the least amount of information required to reliably identify people. International benchmarking highlights how dangerous overlapping systems can be in countries such as China, where civil status officers are in fact the police and censuses identify only households (with individuals, by extension, having no existence outside of this sanctioned entity). Governments also rely on civil status to steer the implementation of their family policies. A corollary is that individuals may subvert or bypass control procedures. In China, for instance, a consequence of the one-child policy is that younger children will generally go undeclared.

Most research, in a variety of contexts, shows that individuals are perfectly able to play with registration injunctions within their own kinship and filiation groups. For example, a Haiti priest told the following story in 2006. Considering civil status to be first and foremost a parochial affair – parishes being more efficient than municipal civil registration offices – a young man who wanted to apply to the police academy requested a certificate of baptism from him. However, not finding his name in the registry, the priest finally realized that the young man had been born outside wedlock. The church, however, has a marriage-incentivizing policy, and only tolerates three children out of wedlock. Being the fourth such child, the young man had to be declared by the neighbours in order to be baptized – in effect being given a forged, 'parochial' civil status, with no mention of his progenitors. Ultimately, a suppletory judgement had to be issued to remedy the situation. In this particular case, reliability of the religious registry is assumed, probably for want of secular registration, and because the state requires that citizen to satisfy religious duties (hence certificates of baptism). Civil status registration (including certificates of baptism, as in the present example) is a prerequisite to access other institutional registrations, which makes it a powerful means of control.

The issue of identification in not easily distinguished from the issue of categorization. As we have seen, even registering a stillborn baby mainly for psychological or emotional reasons may be associated with claiming a legal right to parental leave. While on the one hand, from the point of view of the state and the authorities, identifying individuals and populations and accumulating knowledge about them through censuses and statistics is a necessity in terms of management, administration and tax collection, on the other hand, under the rule of law, identified individuals can also claim rights in practice. The figure of the citizen, this emblem of democratic state societies, identified through the civil status model of identity, faces a constant threat of dissolution into various mobile, individual, fragmented identities of rights claimants – parents, welfare recipients – a consumerist variant of social bonding that could be summarized as follows: I own rights and take what I am entitled to, whether I really need it or not. This is not the least paradox of these democratic state societies, whose unintended consequences are often denounced in the literature today (P. Rosanvallon, M. Gauchet, and others).

As a lesser evil, civil status identification should capture the least amount of information required, as advocated by A. Touraine, thus lowering the risk of misuse or function creep. It is advisable that basic

identification granting citizens access to universal rights – aka 'abstract' rights (D. Schnapper), that is, the right to bear a name, or enjoy citizenship – should not overlap with state identification, understood as a tool of policing. Moreover, in order to be granted access to actual benefits, one also has to be identified and recognized as entitled in various respects, which are taken into account when deploying economic and social policies. Such modes of identification should remain mobile and transitional, leaving some leeway between the various situations. Indeed, since the nineteenth century, social norms have been undergoing constant shifts and reformulations: indigents and paupers have become the disaffiliated; wage-earners are considered affluent; and (work being the cornerstone of social status) workers are not merely proletarians any more, they are also enmeshed in a web of insurance and mutualization systems. Under these circumstances, as highlighted by C. Bec,[13] the state 'seeks to turn abstract legal individuals into socialized, empowered individuals able to make social use of their freedom'. Such considerations stem from close examination of developments in both social and employment law by the author, who adds: 'At that point, there is a shift in the source of legitimacy, which henceforth is derived less from a political project – *faire société*, that is, community building – than from the philosophy of human rights, which in two decades has become the new reference point of social policies.' The state has become a mere manager, and 'the Law disunites more than it unites'. Indeed, so-called concrete, practical rights pitch individuals against one another, and arrange them into competing categories.

The anthropology of kinship and the rule of law

The 2009 seminar organized by the EHESS Anthropology of Writing research team (IIAC-CNRS-EHESS) confirmed known discrepancies between the European model and the practices of many traditional societies (New Caledonia, the Ivory Coast and Senegal in particular). Such discrepancies can and do trigger tense situations that may escalate into confrontation at worst, or lead to the patching together of fake identities at best. However, on a different level, in the deep recesses of today's modern systems of civil status registration, kinship is being disentangled: legal, biological and social kinship are growing apart. The European model itself is challenged by these developments. Official writing tends to mask these complexities of kinship, while case studies raise the question of how to recognize – and document on paper – such links, their developments and potential erasure upon

dissociation (in the case of surrogate mothers and LGBT parenthood, for example).

Traditional societies have their own, custom-based modes of identification. Rites are used to mark events in the lives of individuals, and are also considered as events in the life of the community – births, marriages and deaths are processed and bounded by traditional customs. In French overseas territories – *territoires d'Outre mer* – customary civil status, which takes into account the mores and customs of autochthones, has long coexisted with common law civil status. It might prove useful and exemplary to examine cases that mix both types of status, which was indeed attempted during the aforementioned seminar, based on the case of New Caledonia. Alban Bensa reported that the primary task of pioneering ethnologists had been to survey autochthones in order to determine naming systems as well as the various types of kin relationships – in fact, they even had to help with naming, since family names were unknown. However, modes of identification were based on toponymy, whereby the name is that of a specific location first (in this case a *tertre*). In this environment, ethnologists had to uncover those elements that custom considered as identifiers. Other examples came from Africa – Senegal and the Ivory Coast. In the latter in particular, following independence, policy makers, in an attempt to build a national identity – *ivoirité* or 'ivoryness' – simply eradicated customary traits and practices such as polygamy, allowing no compromise with custom in this respect. While colonizers and their successors took some precautions, made adjustments and compromised by creating two (certainly very inegalitarian) categories – subjects and citizens – nothing of the kind happened this time. In Benin, one of our informants – an active Catholic priest who, having been in charge of several parishes in France, and was therefore in a position to make comparisons, especially with regard to marriages – noticed an important difference, namely that in his country, no proof of civil marriage is required from the church before a religious marriage. On the other hand, any request triggers an enquiry among relevant kinship and ethnic groups, in order to check that no situation of polygamy could result, but also to make sure that all customary dispositions are being respected, regarding the dowry in particular. The wedding couple as well as their respective kins are in fact accompanied. This form of civil registration, based on the French model and implemented by Catholic priests, is thus adapted to local customs. However, the Benin population, most of which is animist, is only partially covered.

Whenever a new nation is established and wishes to appear democratic, with a proper election process, individual identification is introduced as

a prerequisite for voting. Such was the case in the French Territory of Afar and Issa (AFI), as suggested by Pierre Piazza his research about the civil status process in AFI.[14] Djibouti gained independence in 1977 by democratic means. From 1967 to 1977, however, it was a *territoire d'Outre mer* (overseas territory). French authorities relied on birth certificates to structure an electorate, and grant ID and voter cards. An extensive programme of mobile court sessions was set up by the Ministry – a magistrate, a clerk and a secretary would collect last names, first names and fingerprints in order to issue the cards. These sessions, along with a census process that paid close attention to existing customary identification tags, were instrumental in the drive towards written civil status identification, a necessary starting point for democratic elections. Hence, the colonizing power helped create a civil status system that respected custom and ultimately brought about the demise of the colonizing power itself, ousted by a democratically approved declaration of independence.

Most anthropologists who take an interest in kinship invest a great deal of energy into the graphic representations of filial and kin relationships, as they perceive them, which tend to abstract social practice and lived experience into formal combinatorics. Paradoxically, though, Héritier seems to have avoided this trap. While simultaneously following C. Lévi-Strauss and employing computational techniques that multiply such combinatorics, she was able to balance the formal and abstract sides of the anthropology of kinship with her own peculiar approach (which she dubs 'the anthropologist in the city'), or rather her expertise on many ethical issues – AIDS, new modes of filiation, and so on. In addition, by her own account, growing up in Brittany gave her first-hand practical knowledge of the kind of mental gymnastics required to understand kin relationships and simplify them into something easy to grasp in graphical mode. As an illustration, she mentions exchanges between her grandmothers, endlessly unfolding kin relationships of the 'Nth cousins, N times removed' type. Building on this experience, she argues that abstraction is not restricted to Western societies, and that it is possible to apprehend African societies through their own representations of kinship, by inviting them to express their general rules of kinship metaphorically, which she managed to do using seashells as artefacts representing the individuals included in such kin relationships (a mode of representation not unlike those predetermined in her own graphical representations).

One idea that should be discarded is any opposition between oral and written culture, and the notion that traditional societies resort to the

former only. Research has shown various data collecting and writing practices at work in so-called traditional societies, especially in familial contexts: lists of names to be given to children, or more generally journals of family and daily events.[15] Civil status offers one example of the necessity of administrative standardization. In many places throughout the world, such administrative tools have been implemented by colonizers, who generally created two distinct, unequal statuses – subject and citizen – and made accommodations to customary laws. As new states gained independence, they took over the administration of civil registration, adapting it to their specific social and political environment. Implementing consistent civil status practices has become a priority for the International Organization of French-speaking Mayors (*Association Internationale de maires francophones* – AIMF). In its 6 November 2002 Bamako agreement, AIMF declared that:

> The International Observatory on Civil Status (*Observatoire international de l'état civil*) has the following objectives:
>
> - supporting city managers and government agencies in charge of civil status by providing tools for decision-making, and for the design and assessment of civil status policies;
> - encouraging the creation and strengthening of multi-player spaces dedicated to consultation, exchanges and thinking about civil status policies;
> - collecting statistical data and making it available to local and international players in order to improve the efficiency of civil status management in members cities.

The Observatory on Civil Status thus assigned itself the task of comparing the advances made by the various states.[16] Describing the ways in which former colonies took over the organizational administrative structures left behind by colonizers would no doubt be instructive in terms of how to adapt and interpret a given registration system. However, the Observatory on Civil Status – according at least to the proceedings of annual colloquiums held since then – has been concerned with trying to describe what civil status systems *should be* rather than what they *are*, as would be the case in a genuinely socio-anthropological approach. As such, more research is needed to fully explore how, in such practical instances, the civil status model – with its paraphernalia of certificates, registries and personal documents – gets superimposed on, and opposed to, pre-established practices and customs.

The impossible task of the Mayotte Civil Status Revision Commission

With this goal in mind, countries and populations experiencing the opposite scenario represent interesting case studies. Such was the case for the island of Mayotte in the Indian Ocean, whose inhabitants, in 1974, rejected independence and refused to integrate with the Comoros, preferring to become a French department, a choice largely endorsed by Mahorans through a 2009 referendum. This change necessitated an update of the civil registration system, which entailed the election of one form of civil status: either the local, custom-based version, or the common law civil status version. A Civil Status Revision Commission (CREC) was designed for this purpose, operating from 2001 with the specific task of taking the civil status registries from the hands of local *qadis*. Officially created on 8 March 2000, the CREC was supposed to eliminate the need for suppletory judgements, which occur in cases where certificates are non-existent. The commission is not empowered to create a civil status record out of the blue, where no documentation exists at all (which would be tantamount to producing a suppletory judgement).[17] The *qadis*' registries were transferred to the mayors of the 17 communes in 1977: mayors would cater for birth and death certificates, while *qadi*s were concerned with marriages, repudiations, divorces, and so on. However, registries were often shoddily kept or damaged, so that *qadis* were asked to produce suppletory judgements when certain births or deaths went undocumented.

The local legal situation was itself a rather complex affair, insofar as Mahorans could only claim civil status if they could prove their family's presence in Mayotte for three generations – which would require a marriage certificate for the grandfather, a fantasy pure and simple – or by being Muslims (a declaratory condition). No statistics are available about requests for common law civil registration by Mahorans. It seems that very few of them relinquished their civil status in local law, since this would have been perceived as a disavowal of their origins. In 1997, J. Costa-Lascoux attempted a first review of the civil status situation in Mayotte, observing that Mahorans adjusted to multiple arrangements between the local, Sharia-based law and the French common law.[18] She reported very diverse practices, with everyone trying to get the better of both systems (especially in terms of polygamy). It eventually emerged that in traditional culture, identity was a rather process-based affair, slowly building up through lineage, and that ascribing a name was not a first-order priority in the process, and was actually more of a private (even secretive) than a

public step. Since the dominant African-Muslim custom of the island does not include patronymic names, Mahorans oscillate between the secret name they receive as a child, their nickname and a school name to be used for administrative purposes – which generates endless misunderstandings when requiring, for instance, a birth certificate for deceased persons.

As of today, despite the creation of the 39-member Civil Status Revision Commission as early as 2001, the necessary modernization of the civil registration system is far from being advanced enough to grant the island the status of a French *département*. Ever since the seminal study by Costa-Lascoux, many a report,[19] survey and *ad hoc* parliamentary or senate commission[20] have tackled the impossible task of the CREC, recording accumulated difficulties and delays. In 2007, Florence Fauvet (then President of the CREC) listed the main problems encountered by the commission:

> Families with inconsistent names for children because the father's or mother's name have changed over time.
>
> Since names used to be transmitted orally, people would often end up with their father's first name. The very notion of a patronymic name was unknown until 2000.
>
> Difficulties encountered by adult persons realizing that their birth was never declared in the first place: research in the town hall's records, search for witnesses, enquiry on the basis of an approximate birth date.
>
> Problems with people born out of wedlock, registered by common law under their mother's name, but hardly recognized by their father under custom law, leading to a precarious 'bastard' social status.

As a result of these complications, lead time for obtaining documents issued by the CREC ranged anywhere from 2½ years to 6 years, with a sum total of 14,000 pending applications at the end of 2007, a situation that ignited an internet-based campaign as part of which the CREC acronym was said to mean *Commission de retardement de l'État civil* ('Civil status delaying commission'). The movement was mainly spearheaded by young people barred from taking exams, including recruitment exams, or accessing higher education programmes outside Mayotte (which of course has a limited academic offering), by their lack of identity documentation.[21] In an attempt to clear the bottleneck, during the first semester of 2009, France planned to equip the island's 17 communes with new, simplified civil status registration software, allocating 300,000 euros to Mayotte for that purpose.

Conclusion

During the initial stages of colonization, France made a distinction between subjects (natives) and citizens. Customary modes of identification were respected at the time, although this status did not provide similar entitlement. Saada, working on the history of the French state's relationship with former Indochina, noticed trends towards state control in filial relationships, since the French state acted a surrogate father for young mixed-bloods, considering it a duty to seek them out (using physical appearance criteria and establishing race certificates) in order to give them a proper education in France, taking them away from their mother if necessary. Contemporary history is able to distinguish several cases in the relationships between custom law and common law status.

In the Ivory Coast, the state apparently decided to get rid of customary practices entirely and establish a modern civil registration system, with the underlying will to build a new nation, as well as a new national identity dubbed 'ivoryness'. Djibouti, which had Overseas territory (*territoire d'Outre mer*) status from 1967 to 1977, attained independence democratically through a 1977 referendum. French authorities established an electorate from birth certificates, which entitled their owners to ID and voter cards. Mobile court sessions set up by government agencies complemented a census made by army officials to bring about the establishment of a proper civil registration system, a requirement for any democratic election. New Caledonia, another overseas territory, has an institutionalized customary civil status apparatus, which coexists with a common law civil registration system: people have to choose. Customs ignore patronymic names, although clan and group names based on place of origin are acceptable – in this case names derive from *tertres*. Moreover, anthropologists have actively contributed to the process of exploring potential names and giving them civil status legitimacy. To summarize, the history of French colonization and decolonization may help to shed a light on processes of transition from customary identification systems to civil registration systems, or their coexistence.

Traditional societies identify their own members within systems of kinship and filiation. Usually, individual life events such as births, marriages and deaths are socialized through rituals. However, the transition from custom-based to official writing of civil status necessitates transcriptions that amount to transposing and translating identity markers from one system to another. This trait explains why the French central civil status agency in charge of foreign-based nationals – born, married or deceased

abroad, or foreigners having acquired French nationality – focuses mostly (95%) on transcriptions. When establishing an official civil registration system, whenever documents are lacking, several options are available, including mobile court sessions and suppletory judgements, which are ways of taking into account oral testimonies and the declarative mode. Decolonization can create interesting situations in terms of observing how new states appropriate and adjust existing civil status systems. This transfer does not have to brutally eradicate customs as was the case in Ivory Coast; it can be gradual, and even draw on religious systems, as in Benin. Current events in overseas territories offer an opportunity to observe a reverse process – inclusion, rather than independence. Mayotte's *départementalisation* only confirms how difficult it is to establish a French-type civil registration system, since in this particular case documents do exist but are often illegible. Given current events and their socio-political context – an extremely diverse, mostly Muslim population, important migration flows, and numerous abandoned orphans – the island of Mayotte, along with the activities of its Commission for the Revision of Civil Status, constitutes an observable synthesis of the issues raised by the generalization of a European-style civil status model. In this particular context – the island being a French enclave in the midst of an independent state, the archipelago of Comoros – this statutory apportionment is a harsh decision, taking drastic action with little concern for the multiple links and relationships that make up the socio-cultural reality of these local populations. This situation further highlights and underlines the consequences of the globalization of civil status.

Notes

1. ICCS (2009) *Proceedings of the Colloquy Organised in Strasbourg on 13 and 14 March 2009 to mark the 60 Years of ICCS.* http://www.ciec1.org/Etudes/ColloqueCIEC/Colloque60ans/PageAccueilColloque60ans.htm [accessed 6 January 2010].
2. J. Pousson-Petit (ed.) (2002) *L'identité de la personne humaine. Étude de droit français et de droit comparé* (Bruxelles: Bruylant); C. Neirinck (ed.) (2008) *L'État civil dans tous ses états* (Paris: LGDJ); A. Fine (ed.) (2008) *États civils en questions. Papiers, identités, sentiment de soi* (Paris: Éditions du CTHS).
3. A. Fine and F.-R. Ouellette (eds) (2005) *Le nom dans les sociétés occidentales contemporaines* (Toulouse: Presses universitaires du Mirail). Any of these tags taken individually could easily justify a comparative global survey. 'Last name' is probably the identifier that has been most researched by ethnologists, lawyers or even philosophers. E. Saada reminded us of the strong symbolic dimension of the French state's perspective in Indochina: 'Philanthropists also rallied around the name, taken both as a token of

belonging and as generating a feeling of identity […] The vast majority of half-bloods bore a French first name, which was consistent with local resemblance theories, since both the French and the Vietnamese favoured affinities with the father. Family names, however, varied and could be either Vietnamese or French. When legitimate or recognized by their father, half-bloods of course bore his name. Otherwise, they still used it, prefixing it with "dit" (*said*), a practice that was ultimately ratified by the authorities: legally "unknown" fathers were in actual fact well "known" of all. Philanthropists, posing as surrogate fathers, had their say in family name attribution.' See E. Saada (2007) *Les enfants de la colonie. Les métis de l'Empire Français entre sujétion et citoyenneté* (Paris: La Découverte), p. 95.

4. 'Any individual born on the territory of Indochina from at least one presumably French parent, even legally unknown, will be granted French citizenship in accordance with the provisions of the present act. … The race mentioned here appears in the civil and social status, as well as in familiarity with French culture. The proof is called a "medical race certificate," which focuses on a purely physiological understanding of the concept.' See Saada (2007), *Les enfants de la colonie*, p. 14.
5. F. Héritier (2009) *Une Pensée en movement* (Paris: Odile Jacob).
6. Dean Carbonnier rejuvenated the *Code civil* by introducing – ahead of his time, since nobody claimed it at the time – a fourth way of recognising a child as legitimate. French law offered three ways of legitimating a child. First was marriage. Second was the will – especially for men – to state: 'I recognize this child as mine'. The third way was state possession, that is, a publicly recognized situation. To these three classical criteria, Carbonnier added a fourth way of recognizing a filiation: biological truth. The problem – and it is a serious one – is that he made it possible to use it against the other three.
7. M. H. Hermitte (2003) 'La traçabilité des personnes et des choses. Précaution, pouvoirs et maîtrise' in P. Pédrot (ed.) *Traçabilité et responsabilité* (Paris: Economica), pp. 1–34.
8. *Ibid*.
9. This extremely fertile application of the concept of traceability to individuals in terms of their identity was first put forward by Béatrice Fraenkel.
10. M. Capul (1996) *Les Enfants placés sous l'Ancien régime*, 1, *Abandon et marginalité* (Toulouse: Privat).
11. I. Théry (2009) 'Anonymat des dons d'engendrement. Filiation et identité narrative des enfants au temps du démariage' in E. Porqueres i Gené (ed.) *Défis contemporains de la parenté* (Paris: Éditions de l'EHESS), pp. 81–95.
12. J. Edwards (2009) 'La vie sociale du sang et des gènes' in Porqueres i Gené (ed.) *Défis contemporains de la parenté*, pp. 303–21.
13. C. Bec (2007) *De l'état social à l'état des droits de l'homme* (Rennes: Presses universitaires de Rennes).
14. Anthropology of Writing seminar, 29 March 2009.
15. A. Mbodj-Pouye (2008) 'Pages choisies. Ethnographie du cahier personnel d'un agriculteur malien', *Sociologie et sociétiés*, 40:2, pp. 96–108.
16. AIMF (Octobre 2004) *Le fonctionnement de l'État civil dans le monde francophone. La pratique en vigueur dans quelques pays dont les villes sont membres de l'AIMF*.

17. Migrants Outre Mer (MOM) Report 2007, interview with Florence Fauvet, President of the Commission: 'The role of the Commission is to re-establish identity documents created in Mayotte before 9 March 2000. Hence, for this period, the Commission replaces suppletory judgments (which remain valid for later periods). The task is a titanic one, which in 99% of cases consists in establishing or re-establishing illegible certificates. The Commission has been operating since January 2001, for an initial 5-year period, which was extended until the end of 2010, in accordance with the provisions of article 25 of the bill. It is a collegiate organization, presided by a magistrate (currently Florence Fauvet) appointed by the President of the Court of first instance, which also includes the Prefect, the President of the *conseil général* (*département*-level assembly), and the Great *qadi*, or their representatives; as well as mayors involved in pending affairs. The *rapporteur* is a CREC official reporting from town halls, receiving requests and checking whether or not the municipality is able to establish the requested certificate or ascertain any civil status data. The Commission has a backlog of 14,000 pending files and definitely lacks resources (one magistrate only …); procedures are slow (three to four years) … which largely exceeds the theoretical lead-time in the bill. The Commission cannot create a civil status out of the blue, with no tangible element. In such a case, the request is rejected by the CREC and referred to a first instance magistrate. At that stage, a suppletory judgment may re-create a civil status for people who can prove the impossibility to establish it properly through regular means.'
18. J. Costa-Lascoux (1996) *La modernisation de l'État civil à Mayotte* (Paris: La Documentation Française).
19. Migrants Outre Mer (MOM) (2007) 'La situation juridique des étrangers à Mayotte' in *Inventaire de textes applicables à Mayotte relatifs aux droits des étrangers à Mayotte. Documents accompagnant deux formations du Collectif Mom à Mayotte du 3 au 11 novembre 2007 et du 1 au 3 février 2008*.
20. Sénat. N° 461, Session extraordinaire de 2007–2008. Annexe au procès-verbal de la séance du 10 juillet 2008. *Rapport d'information fait au nom de la commission des Finances, du contrôle budgétaire et des comptes économiques de la Nation (1) sur l'immigration clandestine à Mayotte*, par M. Henri Torre, Sénateur; Sénat. N° 115, Session ordinaire de 2008–2009, Annexe au procès-verbal de la séance du 27 novembre 2008. *Rapport d'information fait au nom de la commission des Lois constitutionnelles, de législation, du suffrage universel, du Règlement et d'administration générale (1) à la suite d'une mission d'information effectuée à Mayotte du 1er au 6 septembre 2008*, par M. Jean-Jacques Hyest, Mme Michèle André, MM. Christian Cointat et Yves Détraigné, Sénateurs.
21. The Senate adopted, on 12 March 2009, an amendment to the Overseas development act (*Projet de loi pour le développement de l'outre-mer*) for 'simplifying the civil status attribution procedure for Mahorans and improving process flows'.

10

Consuming Identity and Consuming the State in Britain since c.1750

Edward Higgs

Introduction

In general terms, it is true to say that the history of identification has been written almost exclusively in terms of the activities of the state. A cursory perusal of the standard work in the field shows that Jane Caplan and John Torpey's edited volume *Documenting Individual Identity* of 2001[1] is mainly about state practices in the modern world, and much the same could be said about the present collection (especially the contributions to Part I). Many of the key works in the field, such as Simon Cole and Chandak Sengoopta on fingerprints,[2] John Torpey on the development of passports,[3] and the sociological works of David Lyon on identification,[4] are predominantly concerned with the motivations and actions of public bodies, and their relations with criminals and citizens. Even Valentin Groebner's fascinating discussion of identification in Renaissance Europe, *Who Are You? Identification, Deception and Surveillance in Early Modern Europe*, although covering a wide range of social forms, draws to a considerable extent on the records of public, state and municipal authorities.[5] This is perhaps understandable given contemporary concerns over state-led projects such as the introduction of national identification cards, the use of biometrics on passports and the implications of the development of such forensic technologies as DNA profiling. The historical profession's dependence on the archives and documents created and maintained by state bodies also predisposes it to privilege their identification activities over those of other entities, such as commercial organizations, whose records are not always as accessible.

The history of identification has often been considered, therefore, in terms of the encroachment of the state on personal autonomy. This concern has underpinned much innovative research and many fine

historical works. However, it should be noted that individuals have long been identifying themselves, or been identified by others, in many contexts not directly related to the state. One might include here the use of seals and signatures on documents to indicate the will of the juridical person; the cards used to access bank accounts via 'cash machines'; online banking; and the use of supermarket loyalty cards. People today are enmeshed in such forms of identificatory practice to as great an extent as they are with those of the state, and such interactions are generally seen in a positive light – free gifts rather than Big Brother. Managing individual resources online, buying commercial goods and services from websites, or obtaining credit, are all things that people regard as a positive part of normal life. However, comparatively little consideration is given to the possible dangers of placing so much personal information in the hands of private organizations.

In addition, the contemporary state's use of identification technologies, including biometrics, is often dependent upon products created by commercial vendors, who have helped to drive their adoption. Identification technology is increasingly a commercial product, rather than a creation of the state. Indeed, so powerful are the forms of commercial identification, especially of consumers, that the state is now modelling its own interaction with citizens on these commercial forms. There is a history of identification here that has hardly been written.

The purpose of this chapter is, therefore, to look at the development in Britain of some of the ways in which individuals have identified themselves in the commercial sphere, or, increasingly, how commerce has identified individual consumers for its own purposes. Some consideration will also be given to the manner in which commercial forms of identification have come to influence the way in which the British state interacts with its citizens.

The development of identification in personal finance

For much of the period from 1750 onwards it was the state that led the way in developing means of identifying individuals. The birth certificate, the driver's licence, the mug shot, fingerprinting, and so on, were all novel techniques designed to identify citizens and criminals pioneered by government officials in the nineteenth and early twentieth centuries.[6] In comparison, the forms of identification used by consumers in this period remained comparatively static. Since the great shift from the seal to the signature in the late medieval and early modern periods,[7] consumers and merchants had continued to use the latter on

cheques, promissory notes and bills of exchange. Signatures were easily forged but had the advantage of involving no unnecessary apparatus, apart from a pen and ink, and were always, literally, to hand.

However, the dominance of the signature was undermined from the late 1960s onwards by the development of new electronic forms of commercial identification. In this period, banks and other financial institutions were competing to attract the newly prosperous, and financially stable, mass consumers of the long post-war boom. The growth in the number of bank accounts and financial transactions meant that in the 1960s there was an annual 5% increase in the number of cheques and other paper instruments being processed through the London Clearing House. By the mid-1970s it was feared there would soon be a billion cheques going through the UK clearing system, and it was necessary, therefore, to move to electronic processes before paper-based clearing collapsed under its own weight.[8] Banks were also said to be eager to introduce new services to ward off competition from the Post Office Girobank that had been set up in 1968 by the Labour government of Harold Wilson.[9] They also felt that they had to improve efficiency in the aftermath of a report by the Prices and Incomes Board on the level of bank charges to the public.[10] In addition, services to bank customers were under pressure because industrial action by banking trade unions had forced the banks to restrict the hours they opened. The ending of Saturday opening, just when customers wanted to use their new accounts for shopping, was seen as especially problematic.[11]

These pressures encouraged the banks to introduce innovative ways of allowing people to handle their wealth, and in the process to off-load handling costs on to their customers and retail outlets. Key innovations here included the development of credit and debit cards, electronic point of sale (EPOS) systems and the automatic machine teller (AMT), the 'cash machine'. These systems took advantage of the newly digitized banking system, and led to the issue of tokens of identity in the form of cards, backed up by signatures, or secret keys such as PINs. Credit cards had originated in the USA, where as early as 1915 'shoppers' plates' were being issued by a small number of hotels and department stores. By issuing these cards, the traders concerned undertook to allow their customers, upon presenting the cards, to purchase goods or services on credit from their own outlets. American Express, one of the biggest credit card companies, set up offices in the UK in 1963, and the British bank Barclays introduced its own credit card, the Barclaycard, in 1966.[12]

Such cards were originally part of a paper-based system. An applicant applied for a card at Barclays or participating banks, and after

review and acceptance of the application, his or her details were input to computer, and the customer was sent a card with an embossed account number. On purchasing goods the cardholder normally signed a Barclaycard sales voucher, which was in triplicate or quadruplicate. The sales voucher was then imprinted with the embossed details on the Barclaycard via a specially provided press. The trader checked that the card had not expired; that it was not subject to a card lost or cancelled warning notice; that the sum was not above the 'floor limit' (in which case Barclays might have to be contacted for authorization of the transaction); and that the signature on the voucher corresponded with the authorized signature on the card. One copy of the voucher went to the cardholder, and another to Barclays to bill the cardholder and to refund the vendor.[13] The retention here of some aspects of older systems of commercial identification was particularly important in the demystification, normalization and widespread adoption of new digital technologies by consumers. They reproduced some of the functions of paper-based tools, and continued to operate within a mixed economy of identification. However, the development by IBM of a magnetic strip on which data could be stored in binary form for electronic reading, transformed the 'plastic card' into a true digital artefact.[14] This allowed the 'dematerialization' of the payments system with the introduction of EPOS technology in the late 1970s.[15]

The machine-readable card also allowed the development of the AMT. The British cash-dispensing machine, which was a substitute for branch counter services, was conceived by John Shepherd-Barron, the managing director of De La Rue Instruments, a company that transported Barclay's cash. The company also made and supplied dispensing machines of various sorts. When Barclays first introduced their 'Hole in the Wall' in 1967, customers applied in advance for vouchers, which could then be used to withdraw cash from the AMT. Again, this was a halfway house between paper and electronic processes. The system was later reconfigured to accept electronically readable debit cards and PINs.[16] Other banks soon followed suit.

The use of 'plastic' expanded rapidly. By 1972 there were 1.7 million Barclaycard holders. In that year, other banks, including Lloyds, Midland and National Westminster, launched the rival Access card, and two years later linked it internationally with Mastercard.[17] By 1977 credit cards were accepted by 350,000 trade outlets in the UK, and approximately 7.5 million cards were issued. In 1996 there were 560 credit cards and 550 debit cards per 1,000 people in the UK, and 42% of the population held at least one.[18] Similarly, in 1974 there were 14,908

branches of banks and no electronic ATMs, but by 1999 there were 11,044 branches and 17,892 ATMs. At first the use of such cards was a middle-class phenomenon. Thus, in a survey of the use of consumer credit carried out by the Office of Fair Trading in the late 1980s, 32% of respondents used credit cards, and 37% had done so in the past five years, but the former figure fell to only 11% of those earning less than £5,000.[19] But by the end of the century the use of cards was widespread among all social classes, and in 2009 the UK Payments Council, a trade body setting standards in the field, could envisage that cheques would be phased out by 2018.[20]

Internet banking, in which the bank customer uses passwords and secret keys to access, manipulate and maintain, their own accounts online, is a still more recent development. However, the Nottingham Building Society had introduced a form of online banking in conjunction with Prestel as early as 1983.[21] In internet banking the physical token of the card is often replaced by information maintained online, and identity is proven by supplying such information when requested – customers have to associate themselves with a digital doppelganger.[22] This increases the danger of identity theft but only because consumers' identity has already been appropriated by commercial identity and service providers. Online banking is, of course, part of the ongoing strategy of commercial organizations to outsource their handling costs to customers, something pioneered by the supermarkets.

The rise of the supermarket loyalty card

The history of the supermarket loyalty card in Britain, first introduced by Tesco in 1995, has been one of the great marketing successes of recent years. The store card was an attempt by the supermarkets to collect useful information for themselves, and to capture larger market shares. Tesco's Club Card, for example, helped that store to build an apparently more personal relationship with shoppers via the customer loyalty scheme. The company changed the way in which consumers thought about the supermarket chain – Tesco's mission statement being to '[c]ontinually increase value for customers to earn their lifetime loyalty'. In reality, such card schemes do not actually allow supermarkets to deal with customers as individuals. Rather, by facilitating a finer segmentation of the customer base into ever more specific groups, they allow firms such as Tesco to give customers the impression that they are being treated on a one-to-one basis.[23] Customers in Tesco's databases were originally segmented into cost-conscious, mid-market and up-market

segments, which were, in turn, segmented into healthy, gourmet, convenience, family living, and so on. These sub-segments were then segmented further and communications tailored to each. By 2005, the Tesco's Club card programme had 10 million active households, and sent out four million unique quarterly mailings. Tesco reaped the rewards after the introduction of the store card in the mid-1990s by moving from number two to number one grocer in the UK. By the late 1990s there were 150 nationwide retailer card-based schemes in the UK, with some 40 million cards in circulation.[24]

Card loyalty schemes not only identify individuals via the information card holders supply, but use Geographical Information Systems (GIS) to combine a number of different sorts of spatial information, including census data, post codes, electoral role information, credit data, information on court judgments respecting bad debts, details of motor vehicle ownership, lifestyle data, transactional data, geographical information, and so on.[25] This also allows supermarkets to build up an extremely accurate profile of retail geography to determine the location of new stores, and the placing of product lines within them once they are built. This form of data profiling has been copied from the USA, where credit card companies and online traders hold vast amounts of information about individuals. Wiland Services, for example, maintains a database of about 1,000 different pieces of information on over 215 million individuals. Acxiom, which collects and sells data on consumers to marketing agencies, has created InfoBase, which holds over 50 variables of information on individuals – age, income and real property data, education levels, occupation, height, weight, political affiliation, ethnicity, hobbies, and so on.[26]

As David Lyon has argued, such data collection and profiling is a form of 'social sorting', that affects individuals through narrowing access to goods and services, and placing them in social categories that are seen as problematic. Thus, 'cost-conscious', that is, poorer, customers will receive information about a narrower range of products from supermarkets, and if they live in a poor area their local shop may well stock fewer product lines as well. For Lyon all forms of identification via digital means increasingly place individuals into different groups, or risk categories, as well as identifying specific individuals.[27]

The development of the credit reference agencies

As well as a source of profit, commercial organizations have also long seen customers as a potential threat. As Margot Finn has argued,

although chequebooks, backed up by archives of specimen signature in banks, allowed elite Victorian consumers to pay on the spot, or by post, cash payments of credit accounts in person remained a standard retail practice. Even the retailing revolution of the 1850s onwards, involving the development of co-operatives, multiples and department stores, did not entirely replace the older personalized forms of shopping on credit. The provision of credit depended on trust, and thus on the personal 'credit' of customers. As Finn has noted, such forms of interaction grew out of the very ancient exchange of gifts that created obligations between people, and also depended on the ascription of worth to the word of individuals based on their social rank. Being 'credit worthy' depended as much on an estimation of one's social and personal qualities as on simple financial criteria.[28]

However, such practices inevitably carried risks. References to 'money hunting' expeditions undertaken on foot, horseback and by train, continued to fill the diaries and memoirs of tradesmen in the nineteenth century, along with references to debtors going into hiding or changing address in the night. County court statistics show rising levels of debt disputes, from nearly 400,000 in 1850 to over 1,140,000 by 1900. There are many problems with such figures, including mis-reporting and shifting legal definitions, but an increase on such a scale is likely to indicate some secular trends.[29]

Problems of bad debt led retailers to form their own private protection societies for the identification of those individuals presenting a credit risk. As early as 1776 the London Guardians, or the Society for the Protection of Trade Against Swindlers and Sharpers, had been established in the Metropolis to pool information about fraudsters.[30] There was also a United Society of Merchant Tailors for the Protection of Trade against Frauds and Swindlers active in London at the beginning of the nineteenth century.[31] Similar societies grew up in commercial and industrial centres in the provinces. By 1854 the Leicester Trade Protection Society had connections with affiliates and agents in 469 towns at home and abroad, and there was a National Association of Trade Protection Societies (NATPS) co-ordinating the work of provincial organizations from 1866 onwards.[32] Similar bodies were also established in the USA, such as the Mercantile Agency set up in New York in 1841, which amassed vast amounts of information from local agents from all over the continent on the character and creditworthiness of businessmen.[33]

In the early days such associations, as with many Victorian middle-class gatherings, were as much social clubs as commercial organizations.

But protection societies also produced weekly, fortnightly or monthly circulars describing swindlers active in their area. These provided a wealth of information on the personal qualities and practices of suspect customers. The *City of London Trade Protection Circular*, for example, described Adrian Beaumont, alias Barlowe, as 'of gentlemanly deportment, highly accomplished in painting, music, and most of the fine arts, and … accompanied by his wife, sister, and a little boy of … rather delicate appearance'. In 1883 the *Credit Draper's Gazette* described Edward Roe, once a lamp-cleaner, as a 'stiff, bowlegged man' and 'used to a bit of tinkering when near Sheffield five years ago'. By combining their own private records with published press reports of local bankruptcies, insolvencies and county court litigation, guardian societies amassed a wealth of information on consumers, which were made available to subscribers. This network spread as the societies were integrated. A year after beginning to conduct business the NATPS claimed to have received 75,000 credit enquiries. The Association developed a 'Telegraphic Code' to encourage the rapid exchange of information on debtors via the telegraph, with differing keywords, 'safe', 'good', 'with care', and so on, defining levels of creditworthiness.[34]

By 1970 the two main credit reference agencies in Britain were British Debt Services (BDS) and the United Association for the Protection of Trade (UAPT). The BDS has 8 million items of information recorded on file under a time limit of seven years covering the whole of the country. In that year it anticipated that it would handle 4 million enquiries, and would recover £2 million. Its central register contained information on known debtors, including county court judgments, trade information, bankruptcy proceedings, deeds of arrangement, bills of sale, court decrees, information on estates sequestered and trust deeds granted and change of address. The company maintained a library of 'voters rolls' compiled from the electoral registers, which it claimed, 'enables users to confirm the residential stability of their credit applicant at low cost and without delay'.[35] It also employed ex-police officers, no doubt because of their proverbial tact, to visit houses to make 'status enquiries' for the verification of personal details.[36]

The UAPT, on the other hand, carried out work for the old National Association of Trade Protection Agencies, and received some 300,000 enquiries a month. Rather than having a central register, it was a much more decentralized organization based on 35 local offices. In these local branches was information on cards relating to 14 million people, and about 10,000 additional items were added to them each day. Outside London the UAPT's branch offices organized cards by name, but in

London this was only done by street.[37] Identifying individuals in the UAPT's records seems to have been a somewhat hit-and-miss affair. Thus, the official Crowther Committee on Consumer Credit discovered in the early 1970s that the UAPT had objected to a clause in a proposed Consumer Credit Bill under which individuals could ask for information on their credit rating when a precise name and address was given in the request. The UAPT claimed that:

> If a Mr. David Jones of an address in Cardiff asks what is on file, the credit reference agency may tell him, in all good faith, that they have nothing on file although in truth they have information about him relating to a previous address in Cardiff (dated, say, 4 years previously) together with information about him in the Liverpool area where he resided until recently. The Cardiff area was said to have 20,000 Jones's on file, including 500 David Jones, 350 D. Jones and 200 'Jones (no initials)'.[38]

Such failures, in this case through inadequate 'metadata', are, of course, a feature of many identification systems, as amply illustrated by other contributions to the present collection.

These organizations were subsequently out-competed by new companies entering the British credit referencing market. Equifax, for example, started out as the Retail Credit Company in the USA in the nineteenth century, providing credit references to grocers in Tennessee. It computerized its records in the 1970s, and then moved into Europe in the early 1990s.[39] One of the other big agencies in the contemporary British market, Experian, grew out of the mail order business. In 1981 there were 4.8 million agents of mail order companies, and this number reached 7.4 million by the 1990s, although a large number of these were personal shoppers. Mail order covered 5.7% of non-food retail sales in 1965, and 9.2% in 1979. One of the largest of these companies was The Great Universal Stores Limited (GUS), which had been founded in 1900 in Manchester by George Abraham and Jack Rose. Its credit scoring subsidiary, CCN, was set up Nottingham in 1980, and began by providing computerized credit referencing for GUS, as well as making handsome profits selling data to GUS's catalogue rivals. CCN later became Experian and demerged from GUS in 2006.[40]

Other mail order firms had already pioneered the computerization of personal data on consumers. Thus, Littlewoods, originally a mail order firm based in Liverpool, bought the entire electoral register in 1971 and downloaded 16 million names from it onto computer. An individual's

absence from the register raised problems with their ability to acquire credit.[41] In this manner the citizen and the consumer, and the state and commerce, began to shade into each other, a process that has accelerated in the recent past. Credit reference agencies now aspire to capture the entire population, rather than just problem consumers, as everyone became a potential risk, and this has been facilitated by the use of official databases.

A modern credit reference agency such as Experian holds a range of related databases of information on consumers, including: a postcode address file; the electoral register; information on aliases and associations; data on County Court judgments, bankruptcies, administration orders and voluntary arrangements; previous searches made as the result of credit applications; telephone numbers; information from CIFAS relating to potentially fraudulent dealings; repossessions made by mortgage lenders; addresses from which individuals have recently set up a postal redirection; data on high-risk individuals who appear on official sanction lists, such as the Bank of England Sanction File, the Politically Exposed Persons File (PEP) and the list from the US Treasury's Office of Foreign Assets Control (OFAC); and information about consumers who are in arrears on credit contracts, or who have moved without leaving a forwarding address.[42] Experian holds information on 45 million UK consumers, and processes more than 1.5 million credit reports each week, using algorithms to create a single, numerical credit 'score' for individuals from the information it holds. The scoring determines what credit will be made available to consumers.[43] Similarly, the databases of Equifax cover a similar number of people, and hold over 300 million credit agreement records.[44]

In the UK, a firm such as Experian provides information to over 100,000 organizations active in financial services, retailing, home shopping, telecommunications, the media, insurance, the automotive industries, leisure, charity, property, as well as to utilities. So important has credit referencing become that Experian and Equifax now sell consumers the ability to view their own credit ratings and details, so the latter can check that they are correct.[45] Once again, commercial functions, in this case the maintenance of databases, are partly outsourced to the public. To prove identity, an individual has to supply information such as their name, gender, date of birth, postal and email addresses and credit card details.[46]

Of course, the extent to which such databases actually relate to individuals, rather than to bundles of risks associated with certain consumer profiles, is an interesting question. This is because an individual's

creditworthiness is established, in part, by the area in which he or she lives, as well as by their personal characteristics. In the early 1990s, the Office of Fair Trading (OFT) noted the development of such 'red-lining' in British credit rating agencies, although this was plainly a much older practice. The post code in which consumers lived was given a weighting according to the number of County Court judgments in that post code. This was supplemented by 'geodemographic' information on type of housing, composition of households, age, occupations, and so on, drawn from the census. As in the case of supermarket loyalty schemes, official data was being appropriated for private, commercial purposes. The OFT thought this was acceptable as long as red-lining did not outweigh all other characteristics in the scoring system.[47] This form of 'social sorting', in David Lyon's sense, is still practised today by credit agencies such as Equifax and Experian.[48]

The biometrics industry

One crucial difference between identification in commercial databases and in some of those developed, or proposed, in the recent past by the British state is the role played by biometrics. The state can envisage identifying all citizens, juridical persons and criminals via their bodies, while commercial businesses have until recently tended to shy away from doing the same to their customers, although they increasingly use biometrics to identify their employees, install them in electronic devices such as computers and mobile phones, and may utilize them in the near future for online banking transactions.[49]

Since the 1970s there has been a proliferation of biometric technologies, often developed by commercial organizations, although intended for public use. Automated fingerprint identification goes back to the 1960s, when IBM took out a patent for a system that could automatically compare fingerprint information stored on a database with a fingerprint presented to a viewing pad. The US National Bureau of Standards started the formal testing of such fingerprint systems in 1970, and by 1971 the US Government was actively examining the use of automated fingerprint ID techniques for forensic applications. Also in the 1970s, the Calspan Corporation began marketing fingerprint ID systems to government and corporate customers for use in airports, drug storage areas, prisons, office buildings and apartments. In France, the digital fingerprinting company Morpho was established in 1981, and, after being acquired by Sagem and then by Safran, has become one of the largest producers of automated fingerprint systems in the world.

In the mid-1980s the State of California began collecting fingerprints as a requirement for all driver licence applicants, and in 1992, the first immigration system using biometric fingerprinting, the Schipol Airport Travel Pass, was established in Amsterdam. Biometric fingerprinting is now used at US airports to check incoming foreign airline passengers. In the UK the introduction of 'Livescan' technology in 2001 allowed the police to take a digital fingerprint from a suspect and to compare it to 5 million sets of fingerprints held on the National Automated Fingerprint Identification System (NAFIS).[50]

A number of completely new biometric identification technologies have also been developed in the recent past. The first work on automatic facial recognition was undertaken by Woodrow Bledsoe at the Panoramic Research Institute in Palo Alto in the early 1960s. In 1970 Takeo Kanade demonstrated a rudimentary facial matching system in the Japanese pavilion at the 1970 Osaka World Exposition.[51] The British Home Office and the UK retailer Marks & Spencer are said to have each funded research to produce techniques for the reliable automatic visual recognition of suspects. Limited systems are already in use, such as the 'Football Intelligence System' in Greater Manchester. Here information and photographic records of suspects, and of offenders associated with football violence, are collated so that pictures of 'likely suspects' can be drawn from the database by the police.[52] In Australia, the Smartgate system allows airline passengers with electronic chips in their passports to present themselves to a kiosk for facial identification, and then accelerated passage through security. This technology, a product of Morpho, at that time known as Sagem Sécurité, processed its 150,000th passage in 2008.[53] Facial recognition is now being used in the UK in new biometrics passports, and in numerous systems across the world.

In about 1985 the US Naval Postgraduate School deployed retinal scanning to control access to their War Gaming Laboratory, one of the first uses of biometrics for access to a secure US Defense Department building. In the 1990s, iris recognition replaced retinal recognition as the main form of eye recognition technology, based on the work of John Daugman at Cambridge University. By the dawn of the twenty-first century iris recognition had been installed in Schipol airport for frequent flyers.[54] In 2002 the United Arab Emirates (UAE) started the development of a biometric system in conjunction with Iris Guard Incorporated, which is partly based in the UK, to scan all the irises of individuals arriving in the country to verify whether or not they were banned from entering. This development needs to be seen in the context of the high

numbers of 'guest workers' in the UAE. By March 2007 the UAE had captured 1 million irises, and now 'enrols' about 600 new ones a day. It is reported that some 7 billion iris comparisons are performed daily at the 27 air, land and sea ports of entry into the country. Over a period of four and a half years the system caught some 50,000 people trying to enter the UEA using false travel documents.[55]

Such developments have led to a vast growth in the commercial biometrics industry. In 1990 1,288 units of biometric hardware were sold worldwide but this had increased to 115,000 units by 1999.[56] According to the International Biometrics Group, the global biometrics identification market totalled US$1.2 billion in 2004, and would reach US$5.7 billion by 2010, an annual compound growth rate of 40%.[57] Biometrics is probably one of the fastest-growing business markets in the world. The British state began to copy such innovations, and to buy its technology from Digimarc, IBM, Sagem Securité, Thales, and the like. Such companies actively promote their products to government through conferences, sponsored events and social networks, and there are even commercial websites on which tenders are circulated.[58] State and supra-national institutions such as the EU recognize such companies as 'stakeholders' and actively solicit their views. In the late nineteenth and early twentieth centuries, state officials designed and introduced fingerprinting and identity cards systems; in the early twenty-first century the state purchases systems created by commercial organizations.

The state and the new commercial paradigm of identification

Not only is the state buying commercial identification techniques but it is also modelling its relationship with citizens on commercial paradigms. For example, New Labour's drive to create a positive relationship between the state and its citizens in the early twenty-first century was predicated on turning citizens into consumers of the state. As the then Prime Minister, Tony Blair, put it in a Cabinet Office report of 2005:

> The future of public services has [sic] to use technology to give citizens choice, with personalised services designed around *their* needs not the needs of the provider. Within the public services we have to use technology to join up and share services rather than duplicate them.[59]

'E-government', through which citizen-consumers interact with the state online through portals such as the DirectGov website, was, in turn, seen as requiring the 'management of identity', through which:

> government will create an holistic approach to identity management, based on a suite of identity management solutions that enable the public and private sectors to manage risk and provide cost-effective services trusted by customers and stakeholders. These will rationalise electronic gateways and citizen and business record numbers. They will converge towards biometric identity cards and the National Identity Register.[60]

The perception of citizens as risks, and the solution as lying in identity management, is here explicitly taken from the commercial sector, from which most of the technology for doing so was also to be obtained. Thus, the British state was to model itself on the supermarket, rather than upon relationships with citizens within the classical Liberal polity. Blair, it can be argued, saw the ID card to be introduced under the 2006 Identity Card Act as, in part, the state equivalent of the Tesco Club card. This was perhaps the ultimate conclusion of the Labour Party's long attempt to come to terms with the consumer society that began in the 1950s in the revisionism of Tony Crosland's *The Future of Socialism*.[61] The problem was, of course, that the British public associated state identification with wartime emergencies, and with the identification of the criminal, 'Johnnie Foreigner' and subject races, rather than with supermarket free gifts and bonus points.

The Conservative/Liberal Democrat coalition government that came to power in 2010 was also captivated by commercial models of online provision of services. A new 'Government Digital Service' was set up and efforts made to create a new, single-domain government website.[62] Designed to consolidate government digital services, and make them much easier to use, the new platform was to be modelled on e-commerce portals. This was, in turn, based on recommendations by Martha Lane Fox, the entrepreneur who founded lastminute.com.[63] Although the new government abandoned Blair's vision of the national ID loyalty card, it still saw identity management in terms of commercial paradigms. However, rather than the loyalty card, the new administration turned to the credit reference agencies. Such agencies had already become part of the state's armoury against identity fraud under New Labour, receiving death registration data directly from the General Register Office in order to prevent the identities of the dead being used to gain credit.[64] Experian claimed as a result that it could help 'public

sector organizations make better decisions around policy formulation and efficient service delivery'.[65] The new Conservative/Liberal Democrat administration decided to enlist credit reference agencies in its campaign against benefit fraud, indicating, perhaps, the creation of a new, privatized, national registration system.[66] Whereas New Labour wanted the state to mimic commerce, the Conservative/Liberal Democrat coalition may want the latter to replace the state altogether.

Conclusion

Nothing written here should be taken as a critique of the existing historiography in the field of identification studies. The aim has been to supplement the existing focus on the state with an initial survey of identification in the modern commercial sphere. This is not, however, to draw a distinction between the public and the private, or government and business, because it is plain that such distinctions are becoming increasingly meaningless in the contemporary world. The British state today either models itself on business processes, or is being replaced by the latter altogether. However, the history rehearsed here does raise questions about the Janus-faced nature of identification. On the one hand, identification, and the recognition that goes with it, helps individuals manage their wealth, claim state goods and services, buy commodities online and check their credit rating. On the other, the development and use of identification techniques by commercial organizations can be seen as problematic given the manner in which they involve social sorting, are increasingly intertwined with state activities and do not involve any democratic oversight. Are they, in fact, more insidious, in that they facilitate surveillance covertly and through manipulation? Is Big Brother acceptable if he comes proffering bonus points?

Acknowledgements

The author would like to thank James Brown, Jane Caplan and other members of the IdentiNet group, a network of scholars funded by the Leverhulme Trust, for the stimulating discussions and suggestions that have informed the present contribution to this collection.

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Part III
The Identified: Perception, Resistance and Negotiation

11

Cat and Mouse Games: The State, Indians in the Cape and the Permit System, 1900s–1920s

Uma Dhupelia-Mesthrie

Introduction

In the last four decades of the nineteenth century, migration from the Indian subcontinent to the South African British colonies and states grew at a significant pace. Shiploads of indentured workers made their way to Natal followed by free immigrants paying their own passage. Diamond mining in the Cape Colony and gold mining in the Transvaal attracted more free immigrants. During the war between the Transvaal and Britain (1899 to 1902), Indian refugees also relocated to the Cape. In the post-war situation, the Cape Colony's economic boom attracted more immigrants from India as from other parts of the world. In 1891 there were but 1,453 Indians in the Cape; over a decade later this grew almost tenfold to 10,242, the Cape having the most liberal entry policies of all the South African colonies.[1]

Anti-Asian sentiments grew in the colony in this time of rapid change and growth. These were fuelled by the arrival of shiploads of poor Indians at Cape ports who had been denied landing rights in Natal by the Immigration Restriction Act of 1897, which required new arrivals to demonstrate an ability to write in English. The fear grew that the Cape would be a 'dumping ground'.[2] The result was the quickly rushed through Immigration Act 47 of 1902, which sought, in the words of the Medical Officer of Health, to 'restrict undesirable immigration'. *Undesirables* included those not literate in a European language who did not have £5 on entry (this was increased within a year to £20), prostitutes, lunatics or former convicts. While targeting the poor from across the world for exclusion, the law permitted the entry of a white labouring class lacking money but with evidence of contracts with employers in the colony. Its impact was soon evident, for within a year, the Medical

Officer of Health could report: 'So far as Asiatics are concerned, the Act virtually effects their complete exclusion from the Colony.'[3] The colony differentiated further between Asians, with the Chinese Exclusion Act of 1904 banning all new immigration from China, leaving the control of migration from the Indian subcontinent to the 1902 Act.

Adam McKeown has pointed to the growing restriction on Asian mobility in most of the white settler colonies and states in North America, Canada, Southern Africa and Australia from the latter decades of the nineteenth century onwards and the ripple influences of their laws. The entry controls 'divided the world into East and West, civilized and uncivilized'. These exclusionary practices led to the development and employment of technologies for 'identifying personal status', with the individual person being seen as 'a unique, physical object'. Linked to this was the development of 'filing systems' where the individual's details became part of 'institutional memory as retrievable data'. However, there were 'opportunities for evasion'.[4] Jane Caplan and John Torpey have also suggested that official identity documents inevitably lead to 'cat-and-mouse' games.[5] This chapter examines how the Cape Immigration Act produced documents of identity, systems for management and how the desperate and the poor from the Indian subcontinent sought to evade these.[6] It draws on the rich, but power-laden archive, which the administration of the Immigration Act produced,[7] but also includes a few interviews with family members of immigrants who evaded the system or who sought to assist those seeking entry into the Cape.

Identifying Indians: The permit system and certificate of identity

The passage of the Immigration Act raised a serious problem for those Indians within the colony who wished to go to India to see their families and then return, for few could meet the language or financial requirement on re-entry. For the vast majority there was a circular pattern of migration – a return to India was always prefigured for that is where spouses, children and extended family lived. A return to the Cape was necessary for the livelihoods earned there, whether as shopkeepers, shop assistants or workers, fed the family back home. A domicile certificate was the sought-after document. Possession of it ensured rights to being in the colony, rendering the exclusionary provisions of the Immigration Act inapplicable.

Applications for domicile certificates were, however, routinely denied for the state wished to interfere with an established pattern of migration,

being especially hostile to Indians who had their families in India – they were seen as lacking commitment to the colony. Indians encountered a new meaning of citizenship. To secure a domicile certificate one had to have been in the colony for at least seven years, have established business interests, own property and, unless one was single, the wife and children of the applicant had to be resident in the colony.[8] Between 1903 and 1906 many Indians, denied the certificate, left the colony thus precluding their return.

The Immigration Act 30 of 1906 introduced a permit system for Asians. It excluded from its definition of a prohibited immigrant those Asians who had legally resided in the colony and had secured a permit to leave and re-enter the colony. The permit, for which the applicant was charged £1, indicated: 'the holder […] has proved that he has been lawfully resident in the Cape Colony and is hereby authorised to temporarily absent himself there from and to re-enter […]'. It specified a time period for re-entry, generally one year from the date of issue.[9] It was applicable for travel beyond the borders of the colony by land or sea. This document underwent some modification in 1913 for, by this time, the Cape Colony had joined with Natal, the Transvaal and the Orange Free State to constitute the Union of South Africa. A national standardized immigration system was adopted. Regulations issued under Act 22 of 1913 deemed all Indians, excepting those in the country (and their wives and children), to be prohibited persons. This was harsher than the Cape law as the latter had provided for literacy tests and financial qualifications, but it did allow a longer period of absence from the country, namely, three years. The permit, now renamed the certificate of identity, which permitted such absence stipulated that after the specified date for re-entry, the individual would fall under the normal requirements of the Immigration Act.[10]

Caplan and Torpey have urged a consideration of documents of identity as 'enabling' rather than as simply 'repressive'. They argue for probing 'the relationship between the emancipatory and the repressive aspects of identity documentation', and they seek an avoidance of binaries.[11] The permit (and the later certificate of identity) became a sought-after document since it allowed Indians to visit India with due regard for their right of return. It is, however, hard to view the permit or certificate as anything but a project of surveillance and control of a specific racial group. The permit carried the words 'for Asiatics' – a group regarded as troublesome, competitive and whose presence in the country had to be tolerated. As a project of 'legibility' – to use James Scott's phrase – it had no benign intentions.[12] The state sought to interfere with the circular

pattern of migration Indians favoured. In the early years, as in the case of domicile certificates, permits were routinely denied if Indians indicated they had wives and children in India. Denied a permit, Indians had little choice but to go back to India with no chance of return.

For those lucky enough to secure the permit, the time limit prescribed for re-entry proved to be the next hurdle. The files of the state bureaucracy are full of tragic stories of expired permits and extinguished rights and dreams.[13] Desperate pleas to renew permits fell on deaf ears. A visit to India could be distracting as Indians went on pilgrimage, married off children and attended to farms and houses. For the poor, that return fare had to be saved. The permit system led to a reduction in the size of the Cape Indian population. By 1911 there were 6,606 Indians, 3,636 fewer than was seven years previously.[14]

The harshness of the permit system in the early years and the closed-door immigration policy after Union led to the system being subverted. Denied a return in the absence of a permit or on its expiry, those who had a past life in the colony, who were also separated from brothers and uncles who had rights in the colony, became desperate to return. The lack of opportunities for advancement in the villages of India for young males also produced a desire to go to the Cape where they might have heard about employment possibilities from family or friends. Shopkeepers who relied on shop assistants from their villages also looked for ways in which to seek the entry of those who would otherwise be prohibited entry. From all these ranks came many ways of thwarting officialdom, especially in its efforts to identify individuals via the systems set up for issuing of permits or certificates of identity to legally entitled individuals. The Immigration Act of 1902 led to the setting up of an Immigration Office subordinate to the Colonial Secretary's Office. Prior to this, port health officers under the Medical Officer of Health were the key individuals whom immigrants encountered. The Immigration Office, with its headquarters in Cape Town and further offices in the smaller port cities of Port Elizabeth and East London, now became the first stop for Indians wishing to proceed to India to secure the permit that would ensure their return.

The Immigration Office issued permits very much under the same conditions prescribed for the domicile certificate, though after a few years they relaxed the condition requiring the wife and children to be resident in the Cape. A permit application form required details about the applicant's history of residence in South Africa, visits to the home country in that time, the ownership of immoveable property or business interests, the place of residence of wife and children, the likelihood of

wife and children joining the applicant in South Africa, and a statement of the applicant's plans as to where his permanent home would be. References or supporting documents to corroborate their length of stay in the country had to be provided. These could take the form of sworn statements from referees verifying the details. The applicant came in person, provided a photograph, which was affixed to the form, and an official entered a short description of their bodily features. In this way the state developed biographical knowledge of those within the colony. Each time the individual left for India, the biographical details had to be repeated consistently. The photograph was one means of identifying the individual. It provided the Immigration Officer with an image against which the returning Indian could be compared. Officials could circulate a photograph for verification if necessary. This could be sent, for instance, to employers in the colony for identification and verification of employment history or it could be sent to officials in India to verify the details of the individual in his village.[15] Hayes has argued that 'in southern Africa in the late nineteenth century, photography is related to the history of exploration, colonization, knowledge production and captivity',[16] yet studies of official practices are lacking. We know that the emigration certificates of indentured Indians being imported into Natal bore their photographs;[17] Singha has also pointed to a pass system with photographs for the indentured and ex-indentured in that colony.[18] Officials in the newly conquered British colony of the Transvaal wished to employ the photograph in the 1900s to identify Indians with legitimate rights to reside there, but after the lawyer Mohandas Gandhi and other leaders made representations to officials they backed down.[19] The photograph on the Cape permit, a project of surveillance, was clearly a novel application in the South African colonies on a population that was free and not subject to indenture.

While the photograph retained a permanent place on the permit, it had its limitations. Colonial officials had difficulties reading the Asian face. To deal with this the verbal portrait, long used in Europe for identification of criminals, found a place of significance on the Cape permit. It noted the age, sex, nationality and height of the individual. The emphasis lay in describing distinguishing features and marks. While in early years the descriptions could be vague and general, in later years they became very specific. Adam Ahmed's permit carried the following: 'Height 5ft 6in. Medium build. Large scar along left ear. Scar on forehead above left eye. Scar right eyebrow. Beard moustache.'[20] Wassan Dullabh's descriptions were: '5ft 2in. Both ears pierced. Two small scars corner left eye. Large Nose.' Ticks were placed next to these

descriptions on his return from India, indicating a checking of identity by the officer at the port.[21] Ebrahim Amin's bore this description: 'nails of fingers deformed both hands, impediment in speech. Scar on point left thumb.'[22]

In the early 1900s, among officials in the South African colonies, there was a growing interest in fingerprinting as a means of identification, indicating the spread of knowledge within the empire.[23] In the Transvaal, thumbprints to identify the illiterate had been a practice for some time.[24] In 1907 all Asians there, whether literate or not, were required by law to carry an identification pass on them, which bore all ten fingerprints, leading to Gandhi's prolonged non-violent campaign in the Transvaal.[25] While the Cape permit provided for thumbprints of left and right hand, this section was not enforced between 1906 and 1910, most likely because of the struggle in the Transvaal. Only after Union was fingerprinting enforced nationwide on Indians who applied for permits/certificates of identity whether literate or not – revealing the failure of Gandhi's campaign against fingerprinting. While the certificate of identity only bore thumbprints, evidence suggests that the Immigration Department had records of ten fingerprints.[26] The Union of South Africa brought greater resources and efficient organization. With the establishment of a fingerprints register there was routine checking of prints.

There were other checks on the permit. It bore a number, the stamp of the Colonial Secretary's office, which was placed to cover part of the affixed photograph and the date of issue. The protector of emigrants at the port of departure from India stamped the permit, as did the receiving immigration official in the Cape. After 1910, the Union government allocated a file number to individuals; this numerical code appeared on all subsequent documentation. Each time an individual moved across provincial borders or across the sea their files fattened with documentation as the state captured knowledge of such movements. Both the permit and later certificate of identity were retained by the immigration department on the individual's return.

The certificate of identity had additional features. It was signed by the individual or, if illiterate, they made a mark. There were also signatures of the interpreter, and a witness, generally the immigration officer. With thumbprints becoming the crucial marker of identity, the description section shrunk. with only age, sex and nationality (actually race/religion) stipulated.

Passengers disembarking at a South African port completed a form requiring information about length of stay in the colony, place of

residence, occupation and so forth. The immigration officer scrutinized these details as well as the permit and questioned the passenger. Often the individual would be asked what they knew about Cape Town or any other place they claimed to have lived at. Through the application forms, permits and passenger forms, the state built up a biographical profile of Indians on the move. The paperwork provided a narrative of facts of life and journeys across the ocean. If consistency of narration was not maintained doubts were cast on an individual's identity and an investigation was made.

The Immigration Act of 1902 provided that an individual who entered the colony in violation of its provisions could be placed in custody and deported. Further: 'Any person who aids any person in the contravention of this Act shall be liable for each offence to penalty of £50 or in the alternative to three months' imprisonment with or without hard labour.' A person who made false declarations to secure any certificate would, if convicted, be liable to a £50 fine or imprisonment for a maximum of six months as well as ultimate 'removal from the colony'.[27] The certificate of identity also carried a condition not on the earlier permits:

> this certificate may be held to be invalidated if the person named herein is shown to the Immigration Officer to have made a false declaration in a material point when applying for such certificate [...].

Yet fraudulent entry did take place, and the following section focuses on strategies used to secure the permit/certificate. We know of these cases because they were uncovered by the state through its checking processes, or because individuals confessed under condonation schemes offered by the state, in 1915–16 and later in 1928. The confessions, given the nature of power relations, may not be revealing of the whole truth. They nonetheless point to individuals caught in the snare of official paperwork but who employed clever strategies to secure themselves a place in the Cape. That the state offered condonation indicated a failing of the systems it had established and a knowledge that there was widespread evasion. It also represented a desire to clean up unreliable records and possibly secure knowledge of networks facilitating illegal immigration.[28]

The games begin

One of the earliest means by which individuals secured permits was to indicate on the application form that they were single or widowed

since in the early days a family in India led to refusals. Applicants hid from official eyes wives and children they had in India. They had to sustain this narrative, and some were caught out when eventually the wife/wives and children had to be disclosed when the entry of a minor son was sought.

Narsai Wallabh of Gandwar in Surat created this official biography for himself, which he sustained for 17 years. He came to Cape Town in 1902. His wife Bhoolie, with whom he had only one son in 1894, had died in India. He married his second wife, Dai, in 1914. His biography began to fall apart when in 1925 he applied for permission to bring his son, Wassan, aged 13, to Cape Town. Wassan was thus born when Narsai was supposedly a widower. Under questioning, Narsai confessed. His fictions began in 1908 when he knew disclosure of a wife meant no permit, and Bhoolie had not died. Later, he reinvented her as the second wife, Dai. 'Having told the first lie I had to continue doing so. Wassan is my lawful son born during 1911 as a result of my visit to India at that time.'[29] Narsai was fortunately let off. The immigration office could be harsh if such a lie was told denying the entry of the son on the basis that he had not been disclosed in previous permit applications.

Narsai's case indicates the length of surveillance that individuals were subject to but his fictions were small compared to that woven by others. Such creativity required the co-operation of many individuals including a sympathetic immigration officer. There were, in fact, individuals in the Cape who facilitated the illegal entry of Indians, offering them a crucial lifeline to becoming documented persons. Abdol Cader, the interpreter used by the immigration office at the docks and in the office, and Lal, a merchant in Cape Town, both acted as professional identifiers, verifying the details on countless applications. Their duplicity and that of William van Rhede van Oudtshoorn, the Immigration Officer, came to light when, in 1916, the latter was prosecuted after investigations. He was acquitted because the court found the testimonies of the people whom he had assisted, now forced to become witnesses, unreliable. Cader was never prosecuted and went off to the Transvaal.[30] The new Chief Immigration Officer in 1916, E. Brande, subjected applications to much more thorough screening. Though there were several who exploited illegal immigrants and made money by arranging for permits, others would have regarded themselves as assisting poor countrymen. The binary of good and bad in the face of a very discriminatory law cannot be sustained. Interviews with Lal's grand-daughter-in-law as well as the son of an illegal immigrant indicate that there was no shame attached to these activities. The former saw it as an act of assistance,

which subsequent generations in the family continued to provide.[31] The latter had this to say: 'The reality of the whole thing […] is economics required certain action, and you would act according to the need of the time whether it was legal or illegal.'[32] It is against views like this that the following narratives of deceit and fraud need to be considered. The world of the illegal was also clouded with many traps and unscrupulous persons.

Makan was one of those who was assisted by van Oudtshoorn and a man called Gopal.[33] The documents indicate that he appeared before van Oudtshoorn in February 1910. On his form, to which he appended his signature in Gujarati, he indicated he was 35 years old, a fruit hawker, and that he had been in the colony before the Immigration Act became effective. He wished to go to India to sell some land and return. Gopal certified that all the information supplied on the form by Makan was true. The officer compiled the descriptive portrait of Makan: he was 5ft 9in and had 'large lips, scowling eyes. Upper parts of ears pierced.' The photograph revealed that Makan wore a dot on his forehead. It was on this permit that Makan supposedly went to India and returned in July. The immigration officer noted the dot on his forehead had been removed.

Makan's deception came to light in 1916 when he made another application to go to India. The details on his 1910 and 1916 applications revealed many aberrations. While in 1910 he had said he was single, in 1916 he revealed a son aged 14. In six years Makan had aged but one year. On questioning Makan confessed. He indeed came on the 1910 permit but he had not been in Cape Town in February 1910 when he supposedly applied for it. It was Gopal who secured the permit with the immigration officer's co-operation and sent it to Makan, who was in India. Makan's deception in 1910 had been necessary as although he had been in Cape Town between 1901 and 1907 he had left without a permit. He had a wife and three children in Surat. For some reason Makan was not prosecuted though the immigration department was building up a case against Gopal. Makan lived in Cape Town until 1938, making two other trips to India in between on legally obtained permits.

Makan's case reveals how the photograph as evidence had limited value. Photographs could circulate across the ocean and did not necessarily indicate the presence of that individual in Cape Town at the immigration office. All it needed was a bit of collusion. There were many individuals who sent their photographs and details to local Indians who, using contacts in the immigration office, secured permits,

which were then posted to them in India. Shipping companies were held liable for giving passage to individuals excluded from the Cape so they demanded evidence of the permit before they confirmed a ticket. Kowar, a fruit hawker, who reportedly was in Cape Town between 1902 and 1908, went off to India without a permit. 'After I had been back in India a few months,' Kowar confessed, 'I thought I would like to return to Cape Town as India did not suit my health.' He arranged with Lal to get him a permit for which he eventually paid £7. Van Oudtshoorn processed the application reportedly made by Kowar, but in fact Lal.[34]

A form was filled out seemingly by Dawood in 1911.[35] His photograph was affixed to it as was his signature and thumbprints. His application indicated that he had been continuously in South Africa since 1901. Abdul, his main reference, certified that all these details were correct. Dawood was in fact in India in 1911. His permit had expired in 1907, and he relied on Abdul to secure him a permit for which he paid £10. Abdul reportedly paid van Oudtshoorn £9 for the permit. Abdul persuaded another Indian, Sheik, to sign and place his thumbprints on the form as if he were Dawood. In these early days, Indians did not anticipate the development of efficient checking practices so they took chances. Dawood was uncovered in 1915 when prints were checked, and he gave evidence against van Oudtshoorn.

Using the name and biography of someone entitled to be in the colony was another strategy to secure a permit. Suliman relied on his brother, Omar Vallie, to secure a permit. Omar applied in his own name for a permit but had Suliman's photograph attached to it. Thus Suliman entered Cape Town in July 1910 for the very first time in the name of Omarjee. Having entered Cape Town, Suliman then kept a low profile for 18 years after which he confessed when condonation was offered by the state to all illegal immigrants on full disclosure.[36]

Securing a fraudulently obtained permit was just one way of entering. The other was to illegally enter the colony, establish a living and then if one wished to travel to secure a permit under another name. Narathan explains how he made his way into Cape Town:

> I was born in the village of Walod, (Taluka Bardoli) Dist. Surat, India and I left India for the first time in 1917 for Delagoa Bay […]. My brother Narsai came to South Africa in 1901 or 1902. At present he is residing at No.3 Victoria Road, Mowbray. […] During my stay of 1 year and nine months in Delagoa Bay I got in touch with my brother in Mowbray, who wrote to me that if I could manage to cross the border into the Transvaal he would allow me to stay with him.

> I also got into touch with other Indians in Delagoa Bay and I got to hear of a man who will assist me in getting into the Transvaal. Veni […] myself and another Indian of Lourenco Marques, went to the man's house. I am unable to give this man's name or address. Our Portuguese-Indian guide spoke to the man, who is also an Indian, in Portuguese. I do not understand that language. After the interview I was asked to pay £40. Veni who had my money, paid the £40 to the Portuguese-Indian guide. This man took us to the train and accompanied us from there to Johannesburg.
>
> It was night time when we got on the train in Lourenco Marques. We waited a long time, but it was still dark when the train pulled out of the station. We then travelled the whole day. We were traveling in the guard's van and our guide kept the doors closed, so I am unable to state whether we crossed any bridges. Before we got to Johannesburg, it was night again, our guide took us off and there we left him. We then took a cart and went to an Indian, who was known to Veni, in Market Street, Johannesburg. The journey in the cart took us about two or three hours. We stayed in Johannesburg for two days and then took the train to Cape Town. A Transvaal Indian, with whom Veni's friend made arrangements, got our tickets and accompanied us as far as Kimberley. I do not know this Indian's name or address. We continued our journey from Kimberley to Cape Town. We were not questioned by anybody […]. When I arrived in Cape Town, I went to my brother's place in Mowbray. This was in 1919.

Narathan then lived in Cape Town for the next six years after which he made an application to go to India under the name of Pema. This strategy required the collusion of other Indians who verified his new biography. Pema may well have been the identity of an individual who had been legally in the Cape but who had left permanently. He confessed in 1928 in return for condonation.[37] Usurpation of other individuals' identity was a common practice, if these individuals had left the colony or had even died in India.

In 1925 Mohamed applied for a permit.[38] He indicated that he first came to Cape Town in 1906 as a minor to join his father. Since then he had been working as a shop assistant. He could read and write English and speak Dutch. Mohamed also made a statement narrating his early life and knowledge of Cape Town:

> I first came here during or about 1906. I came to my father Kasamodien & stay with him at Renskie's Farm, Brooklyn for about six

> years. My father returned to India in 1912 & left me with Essop of Sea Street Cape Town. My father has since died in India. He did not return to South Africa. […] I worked for Essop from 1912 to 1918 & then went to Begg with whom I worked for four years. I then went to Hassan with whom I am still working as a shop assistant. Sea Street is just past Long Street – off Waterkant St. Darling Street is at the bottom of this road & the tram runs along it. Jagger & Co are in St Georges St. Ct. Shortmarket Street is off Adderley St. […].

Essop verified all the details provided by Mohamed. The department actually managed to track down details of Mohamed's first entry and located a statement of his father at the time of entry. So the story of Mohamed was seemingly valid. But was this man actually Mohamed? Officials, lacking a photograph or thumbprints of Mohamed in 1906, and inclined to distrust the Indian in general, doubted the veracity of the application. Mohamed was issued a permit and proceeded to India. He returned two years later and under the 1928 condonation scheme confessed. His real name was Bawa and he had entered the Cape illegally and appropriated the biography of a Mohamed who had indeed entered years ago as a minor son. Bawa first landed in Delagoa Bay in 1921 where he secured a residential permit. but Cape Town was his intended destination. He tells his story:

> I stayed in Delagoa Bay for about three months and then made arrangements with a guard on a train to take me to the Transvaal. Arrangements were made with the assistance of the hotel proprietor in Delagoa Bay. I paid about £60 to get into the Transvaal including my ticket. I was taken to the train before the other passengers arrived and then to the kitchen. Under the saloon is a sort of box and I was put in there. It was about one o'clock when the train left the station. I was put into that box about nine o'clock in the morning and late that night I was taken out. The guard then told me to walk on to the next station and buy my ticket for Johannesburg. The following morning I took another train to Johannesburg. I was met on the station by […] Khootoo […].

After several months his host made contacts with an individual in Cape Town and thus he came to work for Begg and later Hassan. Bawa did not provide details of his journey into the Cape. The immigration department confirmed Bawa's story of his landing in Delagoa Bay with the Portuguese authorities, who located his Bilhete de Residencia, which

had his photo, his age, details of origin and a general description. Thus Bawa's story of illegal entry was partly backed up by another permit. He remained in Cape Town till the 1970s. His case points to how despite systems illegal immigration occurred via Delagoa Bay and the Transvaal with a network of individuals to assist.

Some individuals concocted stories that they had been in Cape Town from 1901 to December 1906 and had left without a permit. Their business partners in Cape Town then applied on their behalf for their re-entry. In 1910 Shiba made a statement to the immigration office that Bhaga owned two shops in Cape Town, that he was taking care of these shops and that he sent Bhaga profits. Abdol Cader and Dia certified that this was true. Bhaga passed this first test. A permit was issued so that he could return from India. Presumably the immigration department allowed such permit applications by partners to avert challenges in the court about established rights.

On arrival, Bhaga had to satisfy the immigration officer that his details were correct. The immigration officer at the first port of landing, East London, noted 'does not know anything about Cape Town'. The second immigration officer in Cape Town, explaining this ignorance, 'states he worked in shop and did not go about much'. Bhaga was allowed to land after making a full statement that conformed to the details on his application form. Dia also made a statement that he knew Bhaga and had personally witnessed Bhaga's departure in 1906. For 18 years Bhaga sustained this lie. He confessed in 1928 that he had entered Cape Town for the first time in 1910 and had never been there prior to that.[39]

Other individuals were caught out after a few years of deception. Hari, for instance, signed his application form in 1910 but in 1915 he made a mark as he was unable to sign. Questioned about his earlier signature, he confessed that he had not been in Cape Town in 1910 when the application had been made. It was, in fact, Dajee who made the application and he had merely sent photographs from India.[40]

Some illegal immigrants stood at risk of being exposed by fellow Indians. In general the immigration department did not act on anonymous letters.[41] It did, however, act on information supplied by Ganpat about one Bawa who was due to arrive in Cape Town in December 1910 on an illegally procured permit.[42] Ganpat alleged that Bawa 'was quite a new man for South Africa and was not here at all'. He wrote: 'We are not enemy for any people & don't like to write such letter but have been written upon you for to be honest […] I hope you would send him to India back again […]'.

The Chief Immigration Officer, C. W. Cousins, took a personal interest in this matter:

> I saw this man on his arrival and questioned him in regard to his business at Observatory. He seemed so ignorant that I doubted whether he had previously been in the country. Subsequently I questioned him again in the detention depot, and the attached statements show what contradiction there is between the allegations made by him and his friends.
>
> I paraded 5 Hindoos in front of him, including his alleged partner, and after some hesitation he proceeded to point out the wrong man only going to his right partner when he signalled to him.
>
> Subsequent to this to make sure he was taken to Observatory by Mr van Oudtshoorn and Detective O'Hare and asked to point out the house in which he said that he had lived for 8 years, but he had to be taken to the street and twice passed his own door without noticing it. Other Hindoos have offered to identify him but no one of sufficient reputation has succeeded in doing so [...].

Bawa was deported after failing these identification tests.

It was the systematic fingerprinting of Indians after 1911 – in the case of wives or minor sons on their first arrival in the country and for others each time they left the country – which allowed for discovery of fraud. Checking was quick. Dewa returned from India on 13 November 1920; by 26 November his prints, taken on arrival, were compared and confirmed with the applications in his file.[43] Boodia's thumbprints of 1911 did not correspond with that provided in 1921. He was deported. He maintained some dignity by paying his own return fare.[44] His case reveals that it was possible to evade detection for an extensive period of time. As long as he did not travel to India he was fine, and a desire to go to India after a ten-year gap was his undoing.

Jaffer applied in 1911 to go to Zanzibar. He had references supporting his application that he had been in Cape Town since 1903. He 'returned' in 1912 with the permit issued. In 1917, when he applied again to leave, his deception was detected since his prints did not correspond with those on the 1911 form. His uncle confessed that he had paid people to get Jaffer's permit. Hassan, who had given the reference for Jaffer in 1911, confessed that it was his prints on the 1911 form. Jaffer's illegal entry was condoned.[45] Others were less lucky – Dulab a harness maker in Port Elizabeth, was deported when his fingerprints of 1911 did not match the prints of 1915.[46]

Officials could also, through the fingerprints register, identify whose fingerprints were fraudulently provided. In 1911 Calan secured a permit fraudulently. His application had references certifying that he had been in Cape Town since 1902. His description on the permit reflected that he was 5ft 1in and that he had 'medium build square jaws. Thick nose. Small mark on left cheek. Moustache.' All this was ticked off on his permit as checks were made on his entry in 1912. He was also questioned by the immigration officer about his knowledge of Cape Town. The first officer at port of landing indicated 'knows nothing about Cape Town. Has a Permit.' The second officer at port of final destination, most likely van Oudtshoorn, wrote: 'Is a stupid fellow but knows something of Capetown. Left here in September 1911.' In 1917 his prints were compared, and it was found that those on the 1911 application were not his but were those of one Kara. He was nonetheless issued with a permit with a warning and received condonation in 1928.[47]

Ranchod Ratting's story is that of a daring adventure indicating a desperation to be in the Cape.[48] He was a shoemaker who, after living in Kingwilliamstown for two years returned to India and then sought re-entry into the Cape in December 1906. Lacking sufficient funds and unable to write in a European language, he was declared a prohibited immigrant at the first port of call, East London. As his ship was to proceed to Cape Town he was given a temporary permit to land, allowing only ten days before he was to leave the colony. His thumbprints were affixed to this permit. Cape Town immigration officials ensured that Ratting and five other individuals were placed on a ship departing for India but soon various slips occurred. There was poor communication between the port officials from Cape Town to the next port of call at Port Elizabeth about the presence of prohibited immigrants on board ship, perhaps deliberately or because it was three days before Christmas. At Port Elizabeth, the purser indicated that there were no prohibited immigrants on board. In the meantime, all six prohibited immigrants disappeared from the ship, leaving behind red-faced officials who resorted to a flurry of telegrams to no avail. Ratting ended up in the world of the undocumented.

Three years later, Ratting now a shoemaker in Mowbray in Cape Town, restored himself as a documented person by applying for a permit in the name of Ranchor Ratanjee. He claimed to have been in the colony for seven years continuously and provided references from two individuals to that effect. His one referee, a Mr Freeman, declared him to be 'an honest & straightforward man & good worker'. With this permit Ratanjee returned to India to see his wife and son, returning

in 1910. Four years later he successfully received a second permit. The first permit made the issue of a second one easier – but this time under requirements in force he gave his prints on his form.

It was after his return in 1915 that Ranchor Ratanjee's prints of 1914 in file 4045 were matched by some zealous official against those of Ranchod Ratting on the temporary permit of 1906 in file 2578a. However, the officials were unable to trace him, and it was only in 1920 when he applied once again that he was apprehended. Though he stuck to the biographical narrative he had constructed he could not argue with the evidence and he was deported. This time there were many checks to ensure he left. He received a temporary permit (bearing his prints) allowing him to travel to Durban from where the ship to India would leave. On boarding his prints were checked against the temporary permit, which was then returned to the Cape Town office. His case and that of many others reveal that references, employment or work histories ceased to have any significance in later years as fingerprinting was enforced.

While the department had developed so many checks in the permit system many proved to be weak. The photograph in its ability to traverse the ocean without the applicant lay open to abuse. References, work histories and professional identifiers proved to be the weaknesses of the system as it was applied before Union. The application forms contained fictions and only as the years unfolded were they revealed as such. Once fraud was uncovered there were many inconsistencies in how these were dealt with. The story of the permit system reveals that there were innumerable weaknesses, notably staff who were susceptible to bribery. The offer of amnesty schemes and the inability to crack the bigger rings or prosecute with success one of their own reveals the extent of weakness. Fingerprinting, better filing, routine checking and greater resources after Union improved the state's system but did not end illegal immigration. As a technology of state, fingerprinting cut through biographical fictions, unsettled narratives and became the trump card of the immigration department. It rendered the photograph and testimonies of individuals as bystanders in the detection and identification game.

Notes

1. E. Bradlow (1979) 'The Cape Community During the Period of Responsible Government' in B. Pachai (ed.) *South Africa's Indians: The Evolution of a Minority* (Washington, DC: University Press of America), pp. 134–5; S. Bhana

and J. B. Brain (1990) *Setting Down Roots: Indian Migrants in South Africa, 1860–1911* (Johannesburg: Witwatersrand University Press), p. 78.

2. See U. Dhupelia-Mesthrie (2009) 'The Passenger Indian as Worker: Indian Immigrants in Cape Town in the Early Twentieth Century', *African Studies*, 68:1, pp. 117–18.
3. The following explanation of the Act is drawn from G.63-1904, *Report on the Working of the Immigration Act, 1902* (Cape Town: Government Printers, 1904), pp. 8, 11, 21–2, 35–6.
4. A. McKeown (2008) *Melancholy Order: Asian Migration and the Globalization of Borders* (New York: Columbia University Press), pp. 2–12, 193–5.
5. J. Caplan and J. Torpey (eds) (2001) *Documenting Individual Identity. The Development of State Practices in the Modern World* (Princeton: Princeton University Press), pp. 6–7.
6. The Chinese had permits issued under the Chinese Exclusion Act and are hence not the subject of discussion here.
7. See Interior, Regional Director Series (IRC), Western Cape Archives Depot, Cape Town.
8. See IRC 1/1/117 2887a, opinion of C.P. Crewe, 2 February 1905.
9. IRC 1/1/156 3757a, permit of Adam Ahmed, 23 May 1910.
10. IRC 1/1/125 3104a, certificate of Caldoss, 1920.
11. Caplan and Torpey (2001) *Documenting Individual Identity*, p. 5.
12. J. C. Scott (1998) *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven, CT and London: Yale University Press), pp. 1–2.
13. For examples of tragic cases, see Dhupelia-Mesthrie (2009) 'The Passenger Indian as Worker', pp. 126–9.
14. Bhana and Brain (1990) *Setting Down Roots*, p. 194.
15. See, for example, the case of Meta Vala whose photo was sent to his employers at the Kuils River Tin Mines (IRC 1/1/120 2974a).
16. P. Hayes (2007) 'Power, Secrecy, Proximity: A Short History of South African Photography', *Kronos, Journal of Cape History*, 33, 141.
17. Bhana and Brain (1990) *Setting Down Roots*, p. 121.
18. R. Singha (2000) 'Settle, Mobilize, Verify: Identification Practices in Colonial India', *Studies in History*, 16:2, 173, 192.
19. See M. K. Gandhi (2nd ed. 1950, reprint 1972) *Satyagraha in South Africa* (Ahmedabad: Navajivan Press), pp. 87–8; *Indian Opinion*, 29 December 1906 (Gujarati).
20. IRC 1/1/156 3767a, 1910 permit.
21. IRC 1/1/232 5284a.
22. IRC 1/1/159 3833a, application 16 November 1916.
23. See, for instance, Singha (2000) 'Settle, Mobilize, Verify …', pp. 174–81. For a history of fingerprinting, see S. A. Cole (2001) *Suspect Identities: A History of Fingerprinting and Criminal Identification* (Cambridge, MA: Harvard University Press), and C. Sengoopta (2007) *Imprint of the Raj. How Fingerprinting Was Born in Colonial India* (London: Pan Books).
24. Gandhi (2nd ed. 1950, reprint 1972) *Satyagraha in South Africa*, p. 87.
25. See Keith Breckenridge (2011) 'Gandhi's Progressive Disillusionment: Thumbs, Fingers, and the Rejection of Scientific Modernism in *Hind Swaraj*',

in R. Birla, F. Devji (eds) '*Itineraries of Self-Rule: Essays on the Centenary of Gandhi's Hind Swaraj*', *Public Culture*, 23:2, 331–48.

26. IRC 1/1/89 2217a, application of Abdul Ragman Mahomed Sharief, 5 December 1910; in 1928 Fatima Amien, provided full prints on arrival in the Union (IRC 1/1/159 3833a).
27. *Report of the Immigration Officer for the Year 1903*, pp. 36–7.
28. The 1915–16 condonation represented leniency during the war in which India was playing a crucial role for the empire. The 1928 condonation was a result of negotiations between the Government of India and South Africa.
29. IRC 1/1/230 5256a.
30. Z. Dawood (1993) 'Making a Community: Indians in Cape Town, circa 1900–1980s', MA thesis, University of Cape Town, pp. 19–20.
31. Interview by author with LG, 13 September 2007.
32. Interview by author with EO, 29 November 2007.
33. IRC 1/1/233 5306a.
34. IRC 1/1/179 4223a.
35. IRC 1/1/275 6060a.
36. IRC 1/1/237 5361a.
37. IRC 1/1/122 3044a.
38. IRC 1/1/225 5152a.
39. IRC 1/1/228 5224a.
40. IRC 1/1/255 5760a.
41. IRC 1/1/221 5053a, Acting Secretary for the Interior to the Principal Immigration Officer, 24 October 1917.
42. IRC 1/1/258 5814a.
43. IRC 1/1/36 806a.
44. IRC 1/1/290 6258a.
45. IRC 1/1/292 6294a.
46. IRC 1/1/292 6288a.
47. IRC 1/1/282 6138a.
48. IRC 1/1/105 2578a.

12

A Paper Trap. Exiles versus the Identification Police in France during the Interwar Period

Ilsen About

Introduction

Typically, an identity document appears as a portable object displaying parts of the self, as recorded and archived by public or private administrative agencies. However, rather than simply standing as a material object replicating an individual identity, it tends to become another self, detached from the body and matching an identity that has been instituted in a stable, unalterable form. This piece of paper, protected as it is by the law and a set of more or less efficient techniques, defies any alteration and can only be modified by authorized individuals.[1] The legal apparatus protecting the material object is usually accompanied by a desire to ensure the recurring renewal of the ID, so that it may follow the evolution of individuals – their physical transformation, changes of residence and potential modifications of the individual's status over time. Hence, once allocated, these documents cannot be detached from the body, and possessing this power of embodiment they act to bind the identified and the identifiers.[2] The belief that gives ID papers their value as replicas is a basic foundation of trust that ties these two parties.[3] All the parties involved acknowledge the ability of these artefacts to stand for an actual identity, and their relationship is built on this shared knowledge, which recognizes the secret power of ID papers.

Such documents are perceived both as mirrors and vectors of personal identity, and their existence makes it necessary for the bearer to match this identity whenever an identity check is performed. One must, indeed, at that precise moment, *adhere* to the documented information – any infringement on this may generate complications, possibly followed by judicial or coercive measures. The injunction that forces this association

between the self and this virtual, but quite real, Other generates what might be called an original form of coexistence. During identity checks, then, the Self regularly coexists with its Other.[4] The disturbance created by this connection can, in certain situations, become a habit, a commonplace daily event. The routinization of ID checks, considered by administrative agents as legal, regulated and ritualized transactions, has the advantage of softening the unpleasant aspects of this interference, making it bearable, if not painless. The strange feeling that might be generated by the whole operation mostly stems from the distance that separates the observer from those inscriptions and graphical signs from the past, which may no longer exactly match what the bearer has become in the meantime: a former home address, a date, a physical description, a photograph pertaining to a distant moment, the former components of a different self now.

The historical experience pertaining to this practice of manipulating graphical replicas of the self underwent dramatic developments at the end of the nineteenth century, when a new generation of documents gradually occupied the public space.[5] In Europe, the design of identity-bearing cards was influenced by the emergence of innovative anthropometric, graphic and photographic techniques for identifying individuals, while the generalization of such techniques was underpinned both by the standardization of physical media and the centralization of administrative processes. By the time of the World War I these expanded identification measures specifically targeted migrants: millions of individuals were forced to go through endless series of registrations, checks and controls. From then on, they were subject to the state monopoly on legitimate means of movement and identification.[6] During the interwar period several systems, designed to control migration, started to overlap and become more complex as a response to the amplification of European and transcontinental movement. The reactivation of the passport system made it necessary not just to carry a personal ID, but also to procure departure or transit visas. States started to impose compulsory checks upon all foreigners present in the country, who had to go through several steps: registering as a foreigner, applying for an ID, having it renewed if applicable, and experience potential expulsion measures. On the other hand, Europe's political reconfiguration had direct consequences on the status of refugees, opening new windows in citizenship laws: loss of citizenship, de-naturalization and the suppression of several states.[7] Finally, in a particularly harsh economic context, migration came to be regulated by the job market, and the subsequent expulsion of foreign workers imposed new terms for the

control of individuals. A multiplicity of IDs – with conflicting, divergent or overlapping objectives – then stormed the European continent.

This chapter uses the particular case of interwar France to demonstrate how the introduction of the means of identification, which were applied to all foreigners and refugees, became a key element in the historical development of the figure of the exile.[8] Our privileged sources here are mostly drawn from literature and critical thinking, as they attempt to tell or define the living conditions of the exiles. By spotting instances of ID transactions in the huge body of knowledge relative to interwar European exile, priceless information on the most intimate consequences of police identification can be extracted, and the individual effects of control measures sized up. The experience of many intellectuals, philosophers, essayists or writers indeed feeds a school of thought that focuses explicitly on the society of the exiles, the theme of marginality, the figure of the pariah, the outcast and the stateless. Several essays by Hannah Arendt on these issues, as well as such fictional works as Klaus Mann's *The Volcano* or Lion Feuchtwanger's *Exile*, aptly illustrate these themes.[9] Procuring ID papers in Marseilles in 1940–2, and the precious nature of these as emigration documents, is at the core of such emblematic novels as Anna Seghers' *Transit* or Jean Malaquais' *Planète sans visa*.[10]

The phrase *Paper Trap* itself was inspired by D. S. Wyman's controversial *Paper Walls*,[11] where he described the combined effects of anti-Semitism, nationalism, the economic crisis and isolationist measures – especially in terms of immigration – in the United States as a series of obstacles that restricted the immigration of European Jews, first in the late 1930s and then during World War II. Wyman emphasized the lack of any proactive policy by the United States, and especially the strict observance of the incoming visa system, as well as restrictions on allowed admissions in the country, which, according to him, created an administrative bottleneck that he analysed as a major constraint against immigration. This argument, which emphasized the lack of support experienced by Jewish populations before and during the Genocide, prompted fiery discussions and indirectly fostered the study of refugee rescue operations and of the action of European-based American officials and intellectuals, such as Peter H. Bergson, Varian Fry and Mary J. Gold.[12] The imposition of bureaucratic constraints upon refugees – Jewish refugees in particular – and the multiple impediments they experienced before and during World War II clearly convey the most salient aspect of a tragic history of papers – designed to identify, and used as tracking tools.[13] Once put in perspective the visa system, and

more generally the 'passportization' of international mobility, are but a portion of a larger identification system of all foreigners, settled or circulating, who, at every stage of their journey, are compelled to prove the truthfulness of their henceforth suspicious identity. What transpires in the narratives of the refugees are the traces and aftermath of this official injunction, which signals the beginning of a process of daily uncertainty, repeated perplexity and an unprecedented questioning in the contemporary manufacturing of identity, as well as the weaving of a net in which individuals get enmeshed, designated, assigned to a category and literally oppressed.

A 'sliced-up life': Facing the identity police[14]

Interwar France was both a privileged immigration area and a laboratory of social experimentation where state control of the individual was an experiment involving all those declared as foreigners, a laboratory of unheard-of dimensions in the history of police identification systems. The establishment of an identity card for foreign nationals – the *carte d'identité des étrangers* – in April 1917 was thus perceived as an innovative and rather practical means of controlling the mobility and presence of migrants.[15] In the wake of World War I, foreigners wishing to stay more than two months in France had to apply for a card, either at the police station, the town hall or the prefecture, within eight days from their arrival. To obtain this document, one had to get clearance from immigration authorities, which were nationally centralized and headed by a special service reporting to the Ministry of the Interior. In the meantime, the foreigner was issued a receipt (*récépissé*) in lieu of a temporary residence permit. The whole procedure could take weeks and even months, and had to be repeated at each renewal. During the whole interwar period, almost 10 million people were affected and subjected to surveillance, which in practice often amounted to placing individuals under control.[16] Applicants had to fill in multiple forms and file cards, which in turn required yet more identity documents, certificates, proofs of residence or affiliation, photographs, stamps and signatures. One single missing item, one vague suspicion regarding the petitioner, was enough to invalidate the whole procedure, as indicated by Article 4 of a decree from 23 October 1933:

> The identity card may be denied to any foreigner who has neglected to conform to applicable regulations or who, following an investigation, does not seem to offer the required guarantees. Likewise, it may

> be taken away from foreigners who cease to offer such guarantees. In each of these cases, the person concerned should leave the territory within a prescribed time, and may be expelled.[17]

Such injunctions meant that the situation of foreigners was an extremely precarious one, since expulsion could be ordered on the basis of a perfunctory examination of the case. During the 1930s, in the context of the economic crisis, the expulsion-based regulation of immigration became common practice in France, affecting several hundred thousand individuals.[18] Besides, it was almost impossible to lodge an appeal whenever an escort to the border (*reconduite à la frontière*) had been ordered. Suspension could be requested, but it simply meant that the foreigner's right to stay in the county would be decided by the rank-and-file officers employed in the immigration services of prefectures.

It is important to emphasize that requesting an identity card was but one of many procedures by which foreigners legalized their judicial status.[19] In the very specific context of the interwar period, the relationships of foreigners with the authorities expanded considerably, thanks to the addition of a great many steps: depending upon their citizenship request, applications had to be submitted to the High Committee for Refugees, and then to the Nansen passport commission, to embassies and consulates for passports and transit visas, to transportation companies, to town halls for birth or residence certificates, to employers, potential individual backers, as well as various refugee and foreigner rights organizations and committees.[20] The wide array of administrative procedures was compounded by the structural instability of regulations governing control of foreign nationals, which tended to change almost on a yearly basis. Contemporary observers – knowledgeable in policing matters and immigration laws – recognized how difficult it was to find one's way in the maze of such a complex regulatory framework.[21] The following, candid criticism of the 'foreigners' police' expressed by the then Secretary-General of the Human Rights League, Émile Kahn, emphasizes the excesses of the registration system, as control measures were being toughened towards the late 1930s, and offers an accurate view of the hurdles facing foreigners in this context:

> Over just a few days, hundreds of harmless foreigners have been tracked and hit. Residence permits that had been legitimately applied for are being denied. Longstanding expulsion orders, which for all practical purposes had been cancelled by renewable

> suspension orders, suddenly become applicable again. Special treatments that had been promised to political refugees are being cancelled. Scheduled investigations are being sidestepped. Agreed-upon respites are being revoked.
>
> Pay a visit to the Prefecture of police. Wretched, trembling individuals who have been summoned there are waiting for their name to be called. Batches of them are being pushed in to appear before the anonymous officials who are going to decide their fate with one single word. No discussion, no explanation: 'So-and-so? Turned back, you have until such date to leave. … So-and-so? Expelled, you have 48 hours (or 24).'[22]

This account accurately conveys the atmosphere of uncertainty surrounding ID applications and the constant threat attached to each of the main steps of the administrative journey. In the presence of prefecture agents, the legal situation of applicants seems utterly flimsy and susceptible to potential annihilation, along with the dissolution of any legitimate means of existence. As pointed out by Jean-Michel Palmier, in such circumstances the exile becomes a 'hybrid being, endowed with physical reality but whose physical existence has become problematic'.[23] Henry Jacoby, a German anti-fascist, recalled the conditions of his encounter with the French police administration, depicting this state of 'in-betweenness':

> Thus it is that I was introduced to the ominous 'Prefecture of police'. People were kept waiting for hours on end; even using the bathroom was subject to authorization. I was among the lucky ones who left the Prefecture with a receipt acknowledging that they were applying for a residence permit. For a long time, this extended receipt was my only ID. Later on, I was notified of an expulsion order, which still remained a very good document, since – how very French! – one could have it suspended several times. Finally, I was turned back.[24]

Hence, the administrative policing of foreigners turned identity into an erratic concept, and an impending feeling of doom loomed over all applicants, placed in a situation of inferiority, dependence and prolonged suspension. Because delivered documents were systematically limited by their period of validity, waiting became an indefinitely protracted, routine posture. Wide-ranging migrant selection mechanisms being typically unintelligible to the layman, individual rejections were perceived as bitter twists of fate, the outcome of an indecipherable

journey during which one's existence had been hanging by a thread to this new paper identity.

The suspended life of paper identities

Refugees arriving in France during the interwar period shared an experience of exile, which quickly turned into a 'daily tragedy'.[25] Edward Saïd has listed several features of this condition, a 'condition legislated to deny dignity – to deny an identity to people', which creates an invisible frontier between 'us' and the 'outsiders', who end up being relegated to the 'perilous territory of not-belonging'[26]. Distance from the country of origin is experienced as a form of uprooting, a heart-wrenching feeling that signals a deep rift, a *fissure* in the course of life, whose intensity is brought to mind on a daily basis by the complications of an exile's life: switching languages, the frailty of traditional social networks, the challenging task of finding a job, precariousness in every conceivable form. In an extremely insightful text based on her personal experience, Hannah Arendt, immediately after leaving Europe in 1943, expressed the utter loss of bearings experienced by refugees:[27]

> We lost our home, which means the familiarity of daily life. We lost our occupation, which means the confidence that we are of some use in this world. We lost our language, which means the naturalness of reactions, the simplicity of gestures, the unaffected expression of feelings. We left our relatives in the Polish ghettos and our best friends were killed in concentration camps, and that means the rupture of our private lives.[28]

This manifold, irremediable rupture is described as the source of a suffering that slowly destroys the natural, shared optimism of all exiles, leading some of them to commit suicide. Arendt also insists on the brutal decline experienced by individuals who lost, all at once, their academic qualifications, professional status and social position, resulting in some kind of split personality disorder:

> The less we are free to decide who we are or to live as we like, the more we try to put up a front, to hide the facts, and to play roles […]. Our identity is changed so frequently that nobody can find out who we actually are.[29]

While this specifically pertained to the condition of German Jews – who were considered as 'Jews' in Germany, '*Boches*' (Huns) in France, and

'enemy aliens' in the United States – the description of this fluctuating and indeterminate identity may be extended generically to the condition of the foreigner, whose structurally uncomfortable position gets stretched by legal frameworks, and in particular a regulatory policing framework.[30] Confined within the restrictive boundaries of a new, imposed identity, exiles aspired to having their status clarified, which confirmed their change of identity, thus aggravating the 'state of confusion' they were struggling with. In spite of the apparent pointlessness of successive disguises, this behaviour seemed justified, according to Arendt, by the fact that Jews wanted to be recognized as human beings. This desperate attempt, however, went against the deep-rooted upheaval touching the very definition of the social subject, causing any form of identity distortion to fail:

> I can hardly imagine an attitude more dangerous, since we actually live in a world in which human beings as such have ceased to exist for quite a while; since society has discovered discrimination as the great social weapon by which one may kill men without any bloodshed since passports or birth certificates, and sometimes even income tax receipts are no longer formal papers but matters of social distinction.[31]

Arendt unveils here the whole paradox of identity papers in the condition of exiles; desired more than anything as a key factor of social stability yet at the same time emphasizing the inferior position of individuals who were branded as beyond the boundaries of society. Any attempt at integration and regaining one's dignity is thus bound to clash with the identification principle, which nurtures a twofold relegation process – statutory as well as social – thus effectively, by means of the law, contributing to the development of a figure of the pariah.[32]

The bureaucratic nightmare experienced by foreigners is perceived not only as yet another series of ordeals, but as instrumental in the production of this state of deep uncertainty. The practical and symbolic burden of this new order of constraints aggravates the general condition of the exiles, questioning identity. For example, Hermann Kesten noted how important this dimension was when he described this experience:

> I don't know that men who have never been forced to leave their country could imagine life in exile, life with no money, no family, no friends or neighbours, no familiar language, no valid passport, often with no ID at all, no working permit, no country welcoming the exiles. Who can understand this situation: having no rights

> whatsoever, being rejected by one's own country, which even persecutes you, slanders you, and will send hit men across borders to execute you? Being delivered, defenseless, to the police, and expelled from border to border by the foreigners' police …[33]

This deep-rooted awareness of the burden imposed by foreigner-control measures obviously derived from the actual experience of relationships with the identification bureaucracy. The long hours spent in the corridors of prefectures, police stations and consulates, the protracted queuing at various counters, the quest for the countless documents requested constituted both an absorbing and a distressing part in the life of the exiles, constantly threatened with expulsion. There was no choice but for everyone to cope with the necessity of 'untangling the legal imbroglio that their own life had become' and urgently acquainting themselves with the bureaucratic practices of the foreigner's police.[34]

The existence of refugees was tied to the definition of their legal status and crystallized into IDs whose delivery became a major concern for them. In several instances, the card has been described as the key attribute of personal identity, clearly signalling the legality of one's existence. A 'document-less' life then appears superfluous, useless, illegitimate. In his portrait of a generation confronted to exile, Klaus Mann wondered:

> The life of the exiles and the stateless is fraught with countless difficulties, hazards, perils, and sorrows that can hardly be imagined by those who do have a father country. Which Frenchman, Englishman, or American may realize what it means not to own a passport? A person without a passport is only half a person, they are simply unable to live. We, the migrants, have learned and still learn this on a daily basis.[35]

This document-induced demarcation between humans delineated contrasting living conditions that set the ordinary life apart from a life fraught with constant insecurity. In this respect, as a piece of property, that piece of paper was granted the status of something that was not just required or even necessary, but elementary and vital. Arthur Koestler summed up the function of this document in an enlightening statement:

> The identity card is the single most precious possession of a foreigner living in France. Without it, he is an outlaw.[36]

Foreigners, when undocumented, were not merely in breach of the law, but actually located outside the legal frame that applied to the

community as a whole. As such, their presence became 'undesirable', to use a term that entered everyday speech during the interwar period. With remarkable insightfulness, Koestler also noted the central role of this administrative operation by making an inventory of all documents used by refugees:

> Immediately after his passport, the main concern of the refugee is his identity card or his residence permit. The passport proves his right to exist; the permit his right to reside where he resides. The third key document is the working permit, which would allow him to make a living. In most cases, however, it is impossible to get one.[37]

The foreigner identity card regime indeed set apart those who had a job (either in industry or agriculture), from the others, stigmatized as 'non-workers'. As a result, obtaining this document only solved part of the problem, which unfolded gradually under the eyes of the refugees. The scheme, which was meant to regulate foreign labour within the national economic system and to distribute people according to the needs of the various sectors of production, imposed a framework that was incomprehensible to asylum seekers. Their lack of knowledge of the rules of the system, the suspicion surrounding their presence and the indeterminate nature of their status propelled them into the indefinite space of No Man's Land. In his memoirs, Manès Sperber recalled the extreme precariousness of this existence:

> Even when granted, at long last, an 'identity card' that had long and often been denied to them, immigrants were only very seldom conceded the right to work, since unemployment had failed to decrease in France during this fifth year of worldwide economic crisis. Any economic immigrant or political exile who got caught red-handed having a paid job could only expect to be expelled or immediately turned back to the border. Having a professional practice seemed impossible, since foreign diplomas were not recognized. Foreigners were thus condemned to make a living out of thin air.[38]

Escaping the rigours of the law was possible indeed, and transitions to other categories could happen, but any notion of stability remained illusory. As stated by Henry Jacoby:

> In the life of immigrants, everything is transient. It's just that some transiences tend to last longer than others.[39]

This condition is at the heart of Klaus Mann's novel *The Volcano*, which relates the destiny of German and Austrian immigrants in the 1930s. The preamble is a letter written in 1933 by a German national, who having decided to remain in his country passes a harsh judgment on the decision to emigrate, accompanying his condemnation of what he termed 'desertion' with a prophecy filled with foreboding:

> Many of those who are leaving today shall soon feel sorry for themselves. They will experience bitterness and bad conscience. Like Gypsies, they shall wander from one country to another; nowhere shall they be asked to stay; they shall be uprooted; the ground shall part under their feet; many shall fall into misery.[40]

The house of tears: Sophisticated harassment and police chicanery

In their narratives, many exiles referred to the work of Kafka when recounting their journey through the labyrinth of police bureaucracies, confronted by invisible forces, placed more often than not in queues, and dependent on decisions made by faceless authorities.[41] All foreigners and refugees are familiar with standing for hours on end in prefecture corridors, and sharing the uncertainty of a life spent on the fringes of the law.[42] Applying for an ID often turns out to be a tortuous, humiliating journey, in which applicants are faced with corrupt agents who despise and/or bully them. Below is Manès Sperber's story, one of many describing the ordeal undergone in those corridors.

> Hence, immigrants were condemned to countless pilgrimages to the Prefecture, where they had to wait for hours, with a beating heart, first to introduce their application, then to record the decision. I doubt that any one of us ever accepted these journeys and waiting times at the Prefecture without feeling humiliated. Admittedly, employees at the counters – usually women who didn't like their intimate conversations with colleagues to be interrupted – were not particularly adverse, but they did entertain religious, racist, or political prejudices toward their customers, all of whom were 'wogs' (*métèques*). In spite of their harsh manners, these employees were quite apt at softening their stance toward whoever would give them, at the right moment, several cartons of cigarettes wrapped in gift paper, for instance.[43]

The relentlessness of the process, the oppressive, corrupt atmosphere depicted here, enhance the feeling of dithering, uncertainty and indecision. Every single action undertaken in the administrative journey seems to be hostage to the whim of some unpredictable authority. Like Kafka's character in *The Trial*, disorientated by the undecipherable arcane language of the judicial system, foreigners drift along the corridors of the police departments without ever understanding why their own particular route should take such a direction. The imbroglio they are facing is characterized on the one hand by the complexity of the various procedures, the multiplicity of intermediary steps and the vast array of assorted forms they have to fill in and, on the other hand, by the impossibility of clearly measuring the expected duration of a bureaucratic process that is constantly threatening to come to a brutal stop.

At that point, many exiles were overwhelmed by a feeling of despondency, experiencing this policing ordeal as the ultimate collapse of their existence. They perceived the locus of this bureaucracy as a stage where a never-ending tragedy ceaselessly unfolded. The following description of the bureaucratic hassle and the anxiety generated by the legal and administrative insecurity, inflicted upon foreigners, was penned by German communist Karl Retzlaw, exiled to France in 1935:

> I would often pay a visit to the 'house of tears', as the Paris Prefecture of Police was known among us. I often arrived at the required time, but then I couldn't manage to have my case examined, and I had to come back on the next day, or the day after that as well, after having waited in vain. Whenever I was asked to be there at ten, I would systematically arrive as early as seven, only to find out that up to a hundred persons had come even earlier – and this was a frequent occurrence. Sometimes the bureaucrat would only process some of the cases at hand; he was never on time, had lengthy conversations with other civil servants, went to lunch, then to the café, and when he finally came back to his office, it was almost closing time. He behaved like this for months, and finally announced in a loud voice that my '*récépissé*' (receipt) had expired. As I observed that I had been waiting every day at his door but he never let me in, he started bellowing at me that I wasn't to tell him how to perform his job.[44]

The state of shock provoked by arbitrary decisions and what was perceived as a degrading treatment destroyed people's political courage and undermined the set of beliefs they had built in exile. Retzlaw's

examples provide a blunt depiction of the ordeals experienced in the corridors of the Prefecture: the unpredictable nature of the operations; the supreme power concentrated in the hands of one or several officials whose particular frame of mind or mood on a given day could decide someone's destiny; the arbitrary, unmotivated denial or granting of documents. These bureaucratic manners were both the traditional expression of the administration and the specific outcome of this body of officials in charge of immigration, in whose ranks xenophobic feelings were not uncommon. To the complexity of procedures was associated a significant margin of appreciation left to agents whose assessment skills were highly subjective, which was characteristic of the administrative foreigners' police and was confirmed for the subsequent periods.[45]

In her portrait of Walter Benjamin, Hannah Arendt gave an ambivalent description of Paris in the 1930s:

> This Paris was not yet cosmopolitan, to be sure, but it was profoundly European, and thus it has, with unparalleled naturalness, offered itself to all homeless people as a second home ever since the middle of the last century. Neither the pronounced xenophobia of its inhabitants nor the sophisticated harassment by the local police has ever been able to change this.[46]

This optimistic remark highlights the association of an impending hostility towards foreigners and the manufacturing of an original, nationwide form of persecution, made of bureaucratic complications as well as mortifications. 'Police chicanery' is another recurrent term in the narratives of refugees, *chicane* connoting, in French legal parlance, complicated and ethereal procedures, and by extension any convoluted, constraining scheme.

In just a few pithy statements, Leonhard Frank passed a harsh judgement on these ordeals, explicitly exposing the link between police chicanery, presented as deliberate, and the condition of the outcast:

> Paris gave shelter to several tens of thousands of migrants at some point. Their life in the City of Lights was a sombre one, and fear of the Prefecture, of the police – who took sadistic pleasure in tying and untying the knots of destinies as they pleased – that fear never left them, wherever they went, wherever they were, even in their sleep. To the French police, the exiles were little more than debris that had been washed ashore, and they were treated as such.[47]

The impenetrable world of the bureaucratic identification police was staged in one chapter of Theodor Balk's novel *The Lost Manuscript*, first published in 1941. In it, the oppressing atmosphere of the place and the pulsating tension experienced by the exiles ultimately generates panic attacks. An apocalyptic feeling pervades the tragicomic scenes of the drama that unfolds on a stage erected in the corridors of the Paris police department. Language loses its meaning; the very names of the characters get distorted; the course of their lives suddenly gets upset. The characters seem to experience some kind of dissociation that is reminiscent of the pathology described as *désagrégation* (disaggregation), *pulvérisation* (pulverization), *décomposition de soi* (self-decomposition), and which in the nineteenth century superseded the notion of possession[48]. 'Dissociation' is a term that characterizes with great clarity what can be described as an eerie feeling, a startling estrangement from the self, or a far-reaching rupture – a painful tear in one's identity. In this perspective, the foreigners' police appears as an institution that produces tools aimed at unifying identity and stabilizing its attributes. Paradoxically, however, this function generates a feeling of self-dissociation that forces the individuals subjected to these processes to design means of reconciling the real self with this new, legal self. Like the characters in Pirandello's plays, identified foreigners wonder who they have actually become, transformed as they are into someone else, someone who nevertheless remains the same self but exists outside oneself, in a separate, imaginary world, sometimes the world of torment, as evoked in the memories of Claude Vernier:

> I exchanged my papers and my name, my homes and cities, and finally a country for another country, I found myself between Charybdis and Scylla.[49]

The constrained exchange of identities, which materializes into interchangeable documents, signs the condition of a fragmented, scattered life plunging into the abyss. In the last pages of his autobiography – written in the early 1940s, shortly before he took his own life – Stefan Zweig gave a desperate account that seized the ineluctable nature of a rift that he considered irreparable:

> […] Ever since I have had to live with truly foreign papers or passports, it has always seemed to me that I did not quite belong to myself anymore. Something of the natural identity between what I used to be and my primitive, essential self remained forever destroyed.[50]

At the same period, the similarly depressing perspective adopted by Berthold Brecht silhouetted the *dehumanized man* through an imaginary dialogue between two exiles, which opened on this surprising conversation:

> Dumpy: The passport is the noblest part of man. Besides, it does not come into being as easily as a man. A man could be created anywhere, as an afterthought, for no reason at all – a passport, never. That is why a good passport will always be accepted, while a person could be excellent and still not accepted.
>
> The Big: Man is only the material vehicle of the passport, shall we say […].[51]

What Brecht is doing here is integrating the dissociation between a person and their ID; his characters recognize the existence of a hierarchical scale of values, where human beings now stand at the lowest point. The very value of life then seems to hinge on the possession of these objects, which define not only the individuals' status, but also their right to exist in a given time and place. In this new regime of transaction, the value of a paper-made object is higher than life itself, which is reduced to insignificant presence and negligible substance.

Joseph Roth, whose life was deeply impacted by exile, recounted the experience of this dissolution in a very short 1938 piece.[52] In the waiting room of the Prefecture of Police, in an endlessly protracted wait – prostrate bodies, stooped shoulders, elbows resting on knees, foreheads buried in hands. The room itself seems to be closing in on those in wait, frozen in this posture and unable to escape. Roth conjures up the worn-out faces of the exiles, kept in these corridors by the hope of obtaining the precious documents. Suddenly, a child comes in, illuminating the room. By sheer contrast, unburdened by any of the obligations imposed on the grown-up men in wait, the child displays striking serenity and gentleness. His light-heartedness and the natural detachment of his presence make him stand apart. Against the apathy of the exiles – petrified by waiting, stunned, somehow detached from themselves – the child asserts the possibility of an alternative as he resists, and then edges his way out of this gallery of statues, out of this stifling cubbyhole:

> He took the cane from my hands and hit, like only children and angels can, the head of the policeman who was standing in front of the door. He scurried away, the child with the golden locks, between

> the legs of the bustling police, a marvellous, swift ray of sun in our greyish Prefecture waiting room.[53]

Conclusion

The place of the foreigners' section of the huge French police bureaucracy seized the imagination of contemporaries struggling with the administration. The literary testimonies and reports relating this struggle underline both the oppressive nature of the individual control exercised over the exiles and the opaque operation of a machinery that seized people, dissected and deconstructed them. Faced with this mechanism, the subjects of identification seem to perceive at the same time the possible chances to escape the dangers of expulsion or internment, and also the continuous risks that could be taken when confronted by enforcement officers. During this face-to-face test, which was a regular feature in the life of an exile, one of the essential functions of the identification system emerges very plainly: registration allowed the state to keep an eye on individuals and to list any changes in their situation, leaving open the possibility of exerting an enforcement action and making clear the suspicion surrounding the presence of foreigners in national territory. The precarious condition of the exiles who fled their country is therefore greatly increased by those operations that play a role in feelings of worry and fear that constitute their daily lives. But the obligation to comply with identification by identity cards not only played a part in the fragility of the exiles' status, it also defines one of the central elements of an existence deprived of the constituent parts of the identity and locked in a territory without end.

In a visionary novel published in German in 1926, *The Death Ship*, B. Traven tells the story of an American sailor without documents and lost in the major cities of Europe just after the war.[54] After a period of wandering, arrested by the authorities of various countries, expelled from one border to another and ultimately unable to prove his true identity, he ends up in a ship that looks like a wreck. It is in this place filled with sailors and described as 'dead' that humanity is surviving, composed of stateless persons, without official papers, located at the margins of legality, treated like slaves and condemned to remain in the ship, which is itself illegal.

This story contains the prophetic elements of the trap prepared by the policies of identification that have managed to impose, on a large scale, a supposedly universal principle of identification. Everyone placed at the limits of the control system is immediately relegated to the

abyss formed by the administrative exceptions. When these exceptions increase with an influx of exiles, who have left behind all the stable elements of their social existence and are thus vulnerable in the extreme, an uncertain and intermediate territory is created, so bringing together this community united by a same identity *default*. The fragments and testimonies that evoke the painful path in the corridors of the police services reflect the constitution of this space occupied by the *identityless*, close cousins of the *undocumented* and of the *stateless people* described by Hannah Arendt. This fragmented corpus reveals a pivotal moment in an ongoing process, suspended by World War II, which examined the attempts to reduce the dignity of the human person and to dismantle the integrity of individuals by the action of an administrative and police order, in the name of security policies approved by all European states. Directly affected by new measures, the implications of which were unseen by those officials responsible for their execution, the exiles of interwar France shared the fate of a new category of excluded peoples. They found themselves located on the fringes of a new order based on standardized identities and bureaucratic paper trails.

Notes

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3. Here, this trust is being understood as a necessary binding component, which allows bureaucracy to perpetuate itself. See M. Weber (1921, trans. 1968) *Economy and Society*, 1, trans. G. Roth and C. Wittich (New York: Bedminister Press), pp. 212–54.
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7. See F. Caestecker (2002) 'The Transformation of Nineteenth-Century West European Expulsion Policy, 1880–1914' in A. Fahrmeir, O. Faron and P. Weil (eds) *Migration Control in the North Atlantic World. The Evolution of State*

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35. K. Mann (1938, ed. 1969) 'Die Kriegs- und Nachkriegsgeneration' in *Heute und Morgen. Schriften zur Zeit* (München: Nymphenburger Verlagshandlung), pp. 206–27, at p. 221. This is further echoed in his autobiographical narrative entitled *The Turning Point*: 'The passport issue is new, and has to be considered a very serious one. Without a passport, a man cannot live. This apparently unimportant document is actually almost as precious as one's shadows, whose value poor Peter Schlemihl really understood only after unwittingly having relinquished it. Transit visas, work and residence permits, *cartes d'identité*, *titres de voyage*; all those things played an absolutely predominant and rather torturing role in the thoughts and conversations of expatriates Germans.' K. Mann (1949, trans. 1984) *Le Tournant. Histoire d'une vie*, trans. N. Roche (Arles: Actes sud), p. 02 [check page number].
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52. See F. Caestecker (2012) 'Joseph Roth und die Grenze. Flüchtlinge aus Nazi-Deutschland in Belgien und den Niederlanden, ungebeten, aber willkommen?' in B. Biebuyck, P. Campe and E. Snick (eds) *Joseph Roth in Flandern und Holland* (Bielefeld: Aisthesis) (forthcoming); see also Traverso (2004) *La pensée dispersée*.
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13

'Ausweis Bitte!' Identity and Identification in Nazi Germany

Jane Caplan

Introduction

Who was who in Nazi Germany was notoriously a matter of life and death, governed by the collective identities imposed on 'racial' and social groups, notably the Nuremberg laws (1935) imposing so-called racial identities or the regulations on policing the social categories of 'gypsies' or criminals. Obviously any group identity or category is composed of numerous people who are individually the subjects of identity and identification and who are in practice the target of policing and enforcement; and any system of enforcement is only as complete as the individual records on which it relies. While the categorical side of the identity equation in Nazi Germany has been explored in various ways, the question of how individual identity and identification were established and policed has attracted comparatively less notice, other than in the case of the identification of 'Jews'. Even if we look beyond collective systems like the population census or the collection of statistics, which have received the lion's share of attention, numbers and the technologies of recording and classification have been studied more than the papers and policing that constituted the direct interface between the individual and the authorities.[1]

The reduction of individuals-with-names to units-with-numbers is of course the emblematic image of modern dehumanization. The Auschwitz prisoner with a camp number tattooed on her arm has come to represent the ultimate reduction of living humanity to flesh. But the unhappy story of politically driven dehumanization is also to be told in the stories of individuals who were not, or not initially, deprived of name and status, but were stripped of the personal repertoires of civil recognition that they had been entitled to expect as individuals with

their own sense of identity and propriety, and precisely in transactions with officialdom. For some people, this was limited to an intrusive but ultimately liveable experience of impotence and frustration; but for many others, this part of their story preceded the ultimate relegation to an alienated identity that was, at least intentionally, almost wholly in the hands of others (and finally to physical non-existence). Theirs is a story of the painful and humiliating expropriation of familiar individual protocols of identity, and of the forced substitution of another set of markers by an official system that had previously guaranteed these protocols of stable civil identity.

This chapter looks at some of the many administrative procedures and personal negotiations that lay 'behind the *Ausweis*', the flat surface of the identity document in Nazi Germany. My discussion ranges across the period 1933–45 but is limited to the territory of the pre-1938 'Altreich'. I begin by outlining a distinction between 'surveillance' and *Erfassung*. The main part of the chapter then juxtaposes two of the principal means of identification deployed in Germany during the war, when carrying photographic ID was made compulsory. One of these documents, the *Kennkarte* (ID card), was an element in the Nazi regime's repertoire of military, racial and security controls; the other, the *Postausweis* (postal identity card), played an unintended role in the struggle to evade these.

Surveillance and *Erfassung*

Erfassung is the basis for individual identification in a modern state, and needs to be distinguished from the more familiar practice of 'surveillance'. Surveillance (*Überwachung*) in Nazi Germany is familiar from the extensive body of research into the monitoring and control of popular opposition and of public behaviour in general under this regime. This research is always dependent on the surviving case files, card indexes and the documentation of police practices, mainly in Gestapo offices, though more rarely the mechanisms of monitoring and control are themselves the subject of independent research, as opposed to being evaluated as a source for some other story.[2]

But 'surveillance' is only one element of the semantic and practical landscape in Nazi Germany. The other is *Erfassung*, a term that does not have a stable English translation. Its usual translations include words like registration, recording and data capture, with that last term also connoting the German term's idea of 'grasp' or reach (in fact, the Germans too have useful trouble with the word). The word itself was

not a Nazi coinage and survived its usage in that period (unlike, say *Volksgemeinschaft*, which became virtually unusable beyond its reference to National Socialism). As the sum of its meanings, it denoted under National Socialism the bid for 'total documentation'[3] as the basis for a regime of total rule and control. Still, the historical commentaries have been too ready to define it solely by reference to the registration of political, racial or social outcasts, and have therefore tended to miss the extent to which it also applied to the registration of 'ordinary' Germans for the purposes reviewed in this chapter.[4]

Erfassung might be seen the opposite of the panopticon as a mechanism of surveillance, because it depends not so much on fear of the *possibility* that one is being watched even if one isn't, but rather on the *actuality* that one's essential data, identity and movements are registered with and available to the authorities when needed. It is a system that stores and knows one's past rather than just keeping an eye on the present. It is also by implication a total system, controlling people in time and space. These differences are also the difference between the objectives of the two procedures in Nazi Germany. Surveillance is the Gestapo's control wager, intended to extend submission and compliance beyond the capacity of the police to directly impose it. *Erfassung* in Nazi Germany was intended to provided a reservoir of actively usable information about every individual to a regime interested in, and in theory capable of, acting upon those individuals in differential ways – not only for surveillance, but also, and primarily, for the purposes of social and racial sorting, civil registration and military mobilization; for the control of mobility and the mobilization of labour; for racial identification, resettlement and selection for murder.

In terms of the old debates about the political character of the Nazi regime – whether it was a totalitarian dictatorship, or a polycratic system with multiple centres of power where executive authority was distributed in an uneven, uncoordinated and contradictory fashion[5] – *Erfassung* seems to belong to the older image of a state in total control or at least with total reach. Its most complete incarnations before 1933 were the registers of civil status (*Personenstand*), introduced nationally in 1875, and the system of residency registration (*Einwohnermeldung* or *polizeiliche Meldung*), codified in the course of the nineteenth century. Between them, these systems, which were characteristic of the continental European 'police state', aimed to capture data about a population moving through space and time. These the Nazi regime inherited and reformed, but more elaborate plans for a fully operational uniform system for identifying, locating and tracking all individuals were never

completed. This was partly because of the disabling competition of interests in a high-stakes area of policy; partly because the partial systems for the discriminatory registration and monitoring of Jewish Germans sucked in resources; and partly because, despite persistent pressure exerted by the war ministry on security grounds, it was not given high priority and was not seen as absolutely indispensable to the internal efficiency of the regime.[6]

What was achieved was a more limited but, in its own sphere, highly efficacious system of racial sorting. Germany's Jews were for the most part effectively identified, recorded and disposed of as the authorities intended, despite all the imaginable obstacles to such a procedure, which required them to be extricated from the multiple entanglements of a diverse and complex society and polity in which officially determined 'racial' identity was a novel intrusion. But otherwise, the attempts to develop uniform and universal systems of individual identification – specifically, a standard documentary proof of identity for the entire German population – were beset by clashes of interest and problems of coordination and labour power.

The modern regime of residency registration, which still operates in Germany, emerged in the course of the nineteenth century out of older regulations controlling mobility and residence, poor relief and begging.[7] In principle, anyone residing in a given locality (*Gemeinde*) had to register him- or herself at the police registration office (*Einwohnermeldeamt*) and to de-register when they moved away. In larger cities, the register records were organized by both surname and address, and held extensive information on items such as marital status, occupation, changes of name and criminal convictions. The registers provided the police and civil authorities with easily available information on all residents, for police purposes in the narrow sense, military conscription, and other register and lists – electoral, jury duty, school attendance and the like. The police also worked in close collaboration with the civil status register offices (*Standesämter*) to update records of family status, births and deaths.

With the 1867/71 constitutional guarantees of the right to freedom of movement and residence (*Freizügigkeit*), the older systems for controlling mobility and vagrancy through licences and passes fell away, and people could reside wherever they wished. At the same time, the 1867 Pass Law stipulated that German nationals had to be able to prove their identity if required by an official.[8] In practice this meant that people did carry around some form of ID or credentials (*Legitimationspapiere*), and for some classes of people this might have to be a document issued by

the local police. The effect is evoked by Kafka's description, in *The Trial*, of K's search for suitable papers in the parallel system in Austria:

> Back in his room he pulled open the drawers of the desk, everything was there in perfect order, but in his agitation it was exactly the *Legitimationspapiere* [identity documents] that he was looking for that he could not immediately find. Finally he found his bicyclist's licence and was about to take this to the policemen, but then the paper seemed to him too insignificant, and he searched further until he found his birth certificate.[9]

The national system for the obligatory registration of civil status (*Personenstand*) was introduced in Germany by the 1875 Civil Status Law, covering Germany with a dense network of thousands of local registration offices (*Standesämter*) that replicated and substituted for the parish registry system that had been in existence for some centuries.[10] The law was prompted by pressures for the introduction of obligatory civil marriage in the newly unified Reich, to replace the variety of practices in the different German states (many of which had already adopted civil registration or at least facultative civil marriage).[11] The register offices were placed under the supervision of the local Bürgermeister, who often delegated the task to officials who were already retired or who added it to some existing duty, as teachers or police officers.[12] It was regarded as an undemanding secondary job and it was often not very well performed: in smaller localities the accuracy of the civil registers was said to compare poorly with the parish registers.[13] Pressures for professionalization, which began with the foundation of a national association of civil register officials (the *Reichsverband der Standesbeamten*) in 1920, were enhanced and politicized under the Nazis, when the work of the *Standesämter* was massively expanded as its records acquired a new and vital significance in national eugenic and racial policy. This was a role for which the *Reichsverband*'s leadership had vigorously campaigned in the 1920s, and register officials were predisposed to look favourably on a regime that invited them to become active participants in its social and racial projects.[14]

Unsurprisingly, this skeletal structure of *Erfassung* in Germany was expanded and fleshed out after 1933. The main dynamics here were military and eugenic/racial, alongside the regime's general move towards political and administrative centralization, which of course included an unprecedented centralization and politicization of police powers.[15] In outline, the Reich interior ministry secured joint authority

with the Reich finance ministry over residency registration in 1934,[16] and in 1937 the power to regulate all matters concerning passports and identity documents as well as residency registration.[17] The acquisition of these powers was among a series of initiatives intended to improve and centralize the means of *Erfassung*, and also reflected the centralization of police power in the hands of Heinrich Himmler and his deputy Reinhard Heydrich, under the nominal authority of the interior ministry.

A new civil status law was issued in November 1937; among its innovations were requirements for the issue of a 'marriage and family book' (which some Länder had already introduced in the 1920s) to record the now crucial genealogical data for every family line, and for the registration of religion which had been suspended in 1920.[18] In January 1938, a uniform national system of residency registration was established for the first time, retaining the principle of registration alphabetically by name in local police offices.[19] This law and its ancillary measures also eased the gathering of information on each registrant under fifteen different headings (from date and place of birth and occupation to religious affiliation and civil defence status), and it enhanced and extended the exchange of information about individuals among police, state and non-state authorities. This made it, in the words of one historian, 'legally and in practice a multi-purpose official information system'.[20]

A year later, the authorities embarked on an ambitious new scheme for a national register (*Volkskartei*), which was intended to register every resident alphabetically by birth cohort, ultimately to endow each with a unique numerical identifier, and to maintain information on usable skills as well as racial identifiers.[21] The *Volkskartei* was thus intended to link the stable identifiers of birth date, recorded in the *Standesämter*, and the new ID number with the unstable and locally recorded information on residence. But it was never completed: the collection and tabulation of information was so labour-intensive that it was suspended in 1943, in a decision that also reflected the reluctance of the agencies involved to see any one of them gain control over this resource.[22]

These regulations nevertheless created an intensified regime of identification and control of German citizens and residents, and they coexisted with numerous other partial or local systems, such as the increasingly extensive police registers of Jews, criminals and suspects, the membership lists of the mass-membership Nazi organizations, indexes set up by Gauleiters, or the apparatus of labour controls. All these registration systems included integral social sorting mechanisms, crucially the means of identifying Jews: for example, by adding a special tab to their

card or entry (*Volkskartei*) or by keeping 'Jewish' and 'non-Jewish' cards in segregated boxes (the census *Ergänzungskarte*). The mass registration of Jews was thus particularized and subsumed into the overall registration structure, supplementing the local police 'Judenkarteien', based on information extracted from the Jewish community organizations, which Heydrich, head of the RSHA, had encouraged local Gestapo offices to set up,[23] and the registers of baptized Jews collected by the *Reichssippenamt* (Reich Kinship Office), the official bureau charged with issuing certificates of racial descent.[24]

This apparatus of identification was intimately related to the Nazi regime's primary political priority, the waging of war, although as we shall see the war itself was to obstruct the implementation of a fully effective system. The purportedly most comprehensive systems – *Volkskartei*, *Einwohnermeldung* and *Kennkarte* – were maintained and operated by police authorities. Residency registration was the basis for military conscription (reintroduced in 1935), while the other regulations can be seen as part of a broader repertoire of instruments intended to secure the stability of the home front in wartime. Their purpose was to foster and police a reliable and homogeneous national community (*Volksgemeinschaft*) and to extrude potentially damaging and hostile elements, whether these were political opponents, groups designated as racial enemies or the penumbrous categories of the eugenically and socially unfit. Of course, each of these policies also had its own ideological sources and political dynamics, and they were supported by webs of other legislation, pre-eminently the regulations designed to identify, control and exclude Jews; but war was their ultimate rationale and legitimation.

The *Kennkarte*

It was the war ministry (later OKW) that was most persistent in promoting a national ID card. The *Kennkarte*, introduced in October 1938,[25] had first been mooted in 1935 in connection with the return of compulsory military service, when the war ministry proposed introducing a uniform 'Kennpass' for all German nationals (*Reichsangehörigen*) over the age of 14 as a means of monitoring those liable to conscription.[26] Its partisans argued the advantage of a single uniform ID document not only for conscription but also for general police work, the monitoring of international travel and counter-espionage. Against this, police spokesmen expressed concerns about the vulnerability of a mass document to forgery and the cost in police time of issuing it, as well as doubts about the need for a new system of documentation just as the

residency registration system was about to be reformed. Later calculations were to show that about half-an-hour of police time was needed to process each application for a *Kennkarte*, issue the card and file a duplicate, meaning that one police official could process a hundred per week.[27] This division of opinion between armed forces and police was to continue.

Military and traditional security arguments dominated early discussions of this proposal, rather than newer principles of political or racial monitoring. Although it became clear that there were neither resources nor sufficient interest in the immediate adoption of a universal and compulsory document, the ordinance issued by the interior ministry in July 1938 did establish the principle of a 'general police ID document for domestic use [*allgemeiner polizeilicher Inlandausweis*]' for the first time, and specified that it would record the holder's photograph, fingerprints and signature and have a five-year validity.[28] All German nationals over the age of 15 permanently resident in Germany were *eligible* to apply for the card, and the ministry had powers to designate those groups that would be *required* to have one. Accompanying regulations accordingly specified the three categories that would immediately be covered by the ordinance: German males from the age of 18;[29] German nationals over 15 covered by the regulations for certain types of local border-crossing in frontier zones;[30] and German Jews within three months of birth.[31] (For other Germans, its value was emphasized as an easily obtainable convenience – no more scrabbling around, like Kafka, for some usable proof of identity; the police were instructed to cease issuing alternative proofs of identity as hitherto, and these documents became invalid.[32]) Thus the *Kennkarte* was simultaneously a badge of membership in and a stigmatizing mark of exclusion from the national community. It could been seen as imposing different but – given the priorities of the regime – closely related types of discipline on Germany's defenders and Germany's internal enemies.

The new regulations reflected the interior ministry's determination to use its new powers to establish uniform policy in several related areas, including passports, residency registration, the monitoring of aliens and frontier surveillance.[33] This converged with the initiatives in 1938, also partly driven by Heydrich's office, to intensify restrictions on Jews specifically and tighten the net on their identity. The withdrawal of passports issued to Jews and their reissue marked with a 'J' in October 1938, and the imposition of the so-called compulsory forenames (*Zwangsname*) 'Israel' and 'Sara' in August 1938, were integral to this process.[34] Thus, of the groups required to apply for a card in 1938, only

Jews (from age 15) were also explicitly required to also carry it on their person at all times, to tender it unasked in interactions with state or party authorities and identify themselves as Jewish, and to cite their *Kennkarte* number in all written correspondence with the authorities. Their cards, moreover, had a prominent red 'J' printed on the cover and inside left page. This was an immediate and inescapable stigmatization, the humiliating implications of which were underlined by an August 1940 police ordinance in Berlin that reminded the authorities to demand to see a Jewish person's *Kennkarte* 'at every possible opportunity'. It also described in painful detail exactly at what point and what angle Jews were to hold the document as they entered a government office.[35] A stray piece of evidence from Breslau in 1940/1 suggests that its possible scope caused some confusion: was buying a ticket on a tram an official act that required a Jew to proffer his *Kennkarte*?[36]

Shortly after the beginning of the war, all adult Germans not already covered by the *Kennkarte* law were required for the first time to carry photographic ID, meaning passport, *Kennkarte*, or other official or NSDAP ID.[37] The entire population was expected to have been issued with *Kennkarten* by April 1940,[38] and the armed forces command (OKW) was pressing for this as an urgent counter-espionage measure, in which, it argued, Germany lagged far behind England and France.[39] But voluntary take-up of the cards since 1938 had been disappointing (perhaps partly because there was a fee payable), and it now proved impossible to commit the labour and funding needed to issue the millions still required. The OKW had to content itself with a delayed, selective and still non-compulsory extension of the *Kennkarte* system to certain German-controlled territories.[40] And within months, in July 1942, continuing problems in the supply of forms and photographic materials meant that the obligatory issue of *Kennkarten* had to be suspended altogether for the largest category, non-Jewish German males over the age of 18; an expanded list of alternative photo ID was declared acceptable proof of identity.[41] A year later, as the five-year term of the first *Kennkarten* issued in 1938 loomed, their validity was simply extended en masse.[42]

The *Postausweis*

Among the ID documents listed as acceptable alternatives to the *Kennkarte* in July 1942 was the *Postausweis* (postal identity document). Widely used and relatively easy to procure, the *Postausweis* was undoubtedly one of the most accessible proofs of identity for anyone attempting to live illegally – and few memoirs by Jews surviving under

Nazi jurisdiction fail to mention the demoralizing search for passable papers. As Jizchak Schwersenz (who led a dwindling zionist youth group living illegally but openly in Berlin until 1944) pointed out, getting official ID from an official governmental or NSDAP sources was a major challenge, but *Postausweise* could be 'relatively effortlessly' acquired, and satisfied police ID checks in many if not all circumstances.[43] Considerable evidence supports this claim, especially in the final years of the war when the post administration was short of staff and official life was descending into greater confusion. Given its importance as an official ID document and the lack of easily available information on it, the history of this humble document merits a moment's attention.

The first agreement on an international postal identity card (*livret d'identité*) was adopted at the Lisbon congress of the Union générale des postes in 1885, to which Germany was not a signatory.[44] Its purpose was to protect foreign travellers who wanted to use *poste restante* or collect transferred funds from falling foul of post offices' inconsistent identification regimes, to prevent frauds and limit liability. Germany began to issue its own *Postausweis* in June 1904 to applicants either personally known to the issuing official or able to tender adequate proof of identity.[45] Although the *Postausweis* was issued for post office purposes only, it gained rapid acceptance among the public and quickly became a convenient proof of identity. Fortified by the bearer's officially stamped photograph and signature, both the German and international *Postausweis* were in a sense an ID card *avant la lettre*. A 1905 guide to Berlin spoke of the card as 'one of those official proofs of the self [*Ich*] that conscientious citizens do not neglect to carry in their wallet along with other similar documents (bicycle licence, baptismal certificate, residence certificate [*Heimatschein*], passport)'.[46] This was a classic example of function creep, foreseen by those who had resisted its introduction in the first place on the grounds that controlling official identity was the sole prerogative of the police.[47]

In the form in which it circulated in Germany in the 1930s and 1940s, the *Postausweis* was an internationally recognized document issued by post offices in the member states of the Universal Postal Union under the terms of the world postal treaties of 1920 and 1925.[48] It was a pocket-sized, four-sided card printed in French and German on security paper, valid for three years. The card included a stapled photograph cancelled by a postage stamp and two postmarks; an issue number and expiry date; and the bearer's name, description, personal data and signature. It was stamped with the issuing post office's name and seal, and signed and dated by the issuing official.

Because these details lent the *Postausweis* the standard attributes of an identity card and it was issued by a government office, it secured explicit recognition in Germany as an official proof of identity in the absence of a *Kennkarte* (conversely, post offices accepted the *Kennkarte* as an alternative to the *Postausweis*).[49] Unlike the passport and *Kennkarte*, the *Postausweis* was not marked with a 'J', and the evidence that a bearer was Jewish would be betrayed only if it included the registered compulsory name (Israel or Sara).

Its value, especially towards the end of the war, is attested in numerous memoirs by Jewish survivors. Near the war's end, Marianne Strauss held a *Postausweis* under her own name, but without the tell-tale 'Sara', which saw her through the almost daily inspections on public transport.[50] H., the Jewish partner in a case of 'race defilement' in 1941/2, used an illicitly procured *Postausweis* to enable her to risk ID controls at 'aryan bars'.[51] Maria and Walter Abraham were given respectively a *Postausweis* and a driver's licence (another officially accepted form of ID) by a German rescuer in January 1943.[52] By means of a calculated act of deception, Helene Schmid was able to obtain the issue of a legal *Postausweis* under an assumed name in February 1943: the deception involved her cultivating a local postman who was then able to vouch for her identity at the post office, so that she did not have to show any ID for her application.[53] In 1944 Ilse Lewin, who managed to evade deportation in February 1943, was given some forged papers by a friend, which she used to obtain a *Postausweis*.[54] The musician Konrad Latte was able to procure a *Postausweis* in June 1944 under an assumed name, 'Konrad Bauer', to accompany his other forged papers.[55]

Max Kracauer, finally, had mixed experiences with this document. When he and his wife escaped deportation from Berlin in January 1943, he was given an expired *Postausweis* by a friend, an ex-civil servant who had to steel himself to tamper with this official document by substituting Kracauer's photograph for his own and inking in the missing part of the stamp.[56] This 'primitive' forgery survived its first inspection by a rural gendarme as the couple sought refuge outside Berlin, but Kracauer did not want to risk a second test. The couple remained on the run, passed among successive helpers from Confessing Church circles in Württemberg and constantly endangered by their lack of papers despite repeated efforts. In one such bid, the wife of a pastor with whom they were hiding obtained the help of a local postman she had cultivated, claiming that the couple had lost all their papers in an air-raid in Berlin and needed new *Postausweise*. The postman agreed that his daughter would accompany Kracauer and his wife to the Pforzheim post office to

vouch in person for their identity, thus bypassing the need for them to produce other identification. Unfortunately their plans were thwarted at the last moment by a suspicious official in Pforzheim who informed the police, and on the verge of receiving the new documents the couple were forced onto the run again. They survived nevertheless – to face, like many others, the scepticism of the liberating American army when they could not provide any documentary proof of their claim to be Jews.[57]

The post authorities were well aware that *Postausweise* were being misappropriated or misused. The post ministry had already intervened in 1938 to prevent Jews from substituting an unmarked *Postausweis* for their withdrawn and then 'J'-marked passport, by obliging new applicants to register under the compulsory Jewish names of Israel or Sara, and existing *Postausweise* to be recalled and retrospectively identified in the same way.[58] Responses from regional post office administrations showed how difficult it was to comply with this instruction, in the absence of any reliable local registers of Jewish residents.[59] The post ministry continued to monitor abuses of the system. In 1940, it took steps to tighten standards for proof of identity and for the issue, recording, witnessing and storage of forms and documents;[60] in 1943, it warned against counter officials' laxness in proving an applicant's identity and not following delivery guidelines, pointing out that this had enabled a number of Jews to use falsified or borrowed documents to obtain *Ausweise* 'surreptitiously' under an assumed name.[61] It was presumably under the impact of this warning that the Kracauers met the fatal response to their application in Pforzheim. But the document itself was too useful to be withdrawn, especially since procuring alternative forms of photographic ID was getting more and more difficult as the war continued.[62] Compared with the *Kennkarte*, the *Postausweis* cost half as much and took less time and trouble to procure; indeed, according to a report from Frankfurt in June 1942, the police themselves were liable to advise applicants in a hurry to get a *Kennkarte* to obtain the more easily available *Postausweis* instead.[63] In November 1943, all *Postausweise* in circulation were given a blanket extension of validity for the duration of the war, with renewal required only if the photograph or description became out of date.[64]

Conclusion

The *Kennkart*e and the *Postausweis* by no means exhausted the proofs of identity in use under the Nazi regime. Numerous forms of official ID

continued to circulate to satisfy the police identity checks that became more intensive during the war and to fill the gaps left by the authorities' inability to market the *Kennkarte* as a blanket proof. In an attempt to gain some control or even oversight over the proliferation of ID documents, the ministry of interior initiated a survey of forms of ID in use in its extensive field administrations in July 1943, referring to the 'plethora of different identity papers in circulation', the majority of which 'do not conform to the standards of modern identity documentation as far as their security against forgery is concerned'.[65] Indeed, only in 1941 were loopholes in the law on forged ID closed.[66] Already in 1942 Himmler had been forced to acknowledge that 'a large proportion of the [German] population does not carry an official photographic pass with them in everyday activities or when travelling'.[67]

However, these procedures were flanked by the far more intrusive policies for identifying and monitoring the varieties of foreign workers in Germany and, of course, Jews. The identification and tracking of Jews culminated in the imposition of the 'Jewish star' badge in September 1941 – a public visualization and stigmatization of their identity that deliberately evoked long-superseded practices of badging and marking beggars and offenders. It did not, however, supersede their obligation to carry a *Kennkarte*. Foreign workers were covered by all sorts of controls on identification and mobility depending on nationality and status.[68]

The difference between the authorities' determination to identify and control Jews and what might almost be called their hesitancy in relation to non-Jewish Germans was not accidental. The two strands of policy were powered by different dynamics with different objectives, in which what we would now call securitization played a surprisingly modest role. The SS/police commitment to the *Erfassung* of Jews was absolute; and in any situation where regulations covered Jews and non-Jews, officials were instructed to impose the most rigid interpretation of the rules on Jews. By contrast, for German *Volksgenossen* the strategy was more persuasive than coercive. The police in effect franchised out the ID system for these 'ordinary Germans' to other providers – Nazi party and state authorities, and, as we have seen, the post office, whose officials did not work to rigid police standards. This was partly because of the constraints on efficient decision-making and resources, and limits were also set on what was expected: officials were told to exercise discretion so that complying with the law was not excessively burdensome.[69] This two-track system offered switchpoints for at least some people to cross from one side to the other – how many is hard

to tell: the historian can mostly track only the failures who turn up in the arrest records.[70]

In other words, this was not a total identification system that failed, but a failure even to get to the level of a total system. The ultimate paradox – reflecting the wider antinomies of the Nazi regime – was that a programme originally introduced to support wartime mobilization and security needs was defeated precisely by wartime pressures on staff, resources and public compliance. There was not enough police time, not enough paper or photographic materials to support the *Kennkarte* or maintain the *Volkskartei*.[71] In this sense, *Erfassung* evaded the regime, driving it back for security purposes to the mechanisms of surveillance. In the end, the loopholes may not have mattered – except to those few who could squeeze through them. Despite ministerial complaints against the inadequacies of the system, it does not appear that the regime lost track of large numbers of people whom it most wanted to mark and keep in sight – whether reluctant conscripts, soldiers on leave or foreign workers, or, above all, Jewish Germans.

Acknowledgements

I am grateful to the Zentrum für Zeithistorische Forschung in Potsdam and the Max-Planck Institute for the History of Science in Berlin for fellowships in 2009 and 2011, which enabled the research and writing of this chapter; and to seminars at the German Historical Institute, London, the universities of Oxford and Sussex and the Max-Planck Institute for the History of Science, as well as to members of IdentiNet, for helpful criticisms and comments on earlier versions.

Notes

1. G. Aly and K. H. Roth (1984) *Die restlose Erfassung. Volkszählung, Identifizieren, Aussondern im Nationalsozialismus* (Berlin: Rotbuch); English translation (2004) *The Nazi Census. Identification and Control in the Third Reich*, trans. E. Black (Philadelphia, PA: Temple University Press); S. Milton (1997) 'Registering Civilians and Aliens in the Second World War', *Jewish History*, 11:2, pp. 79–87; S. Milton and D. Luebke (1994) 'Locating the Victim: An Overview of Census-Taking, Tabulation Technology, and Persecution in Nazi Germany', *IEEE Annals of the History of Computing*, 16:4, pp. 25–39; L. Heide (2009) *Punched-Card Systems and the Early Information Explosion 1880–1945* (Baltimore, MD: Johns Hopkins University Press). Introductory: T. Claes (2010) *Passkontrolle! Eine kritische Geschichte des sich Ausweisens und Erkanntwerdens* (Berlin: Vergangenheitsverlag).
2. On indexes, see V. Eichler (1995) 'Die Frankfurter Gestapo-Kartei. Entstehung, Struktur, Funktion, Überlieferungsgeschichte und Quellenwert' in G. Paul

and K.-M. Mallmann (eds) *Die Gestapo. Mythos und Realität* (Darmstadt: Wissenschaftliche Buchgesellschaft), pp. 178–99; J. Müller and W. Volmer (2000) 'Eine Erkennungsdienstliche Kartei der Kriminalpolizeileitstelle Köln' in H. Buhlan and W. Jung (eds) *Wessen Freund und wessen Helfer? Die Kölner Polizei im Nationalsozialismus* (Köln: Hermann-Josef Emons Verlag), pp. 401–23.

3. Hence the title of the study by Aly and Roth, *Die restlose Erfassung*.
4. See, for example, R. Michael and K. Doerr (2002) *Nazi-Deutsch/Nazi-German. An English Lexicon of the Language of the Third Reich* (Westport, CT: Greenwood Press), p. 149, where the entry reads 'to register, catch. To keep perfect bureaucratic lists of individuals considered antigovernment. To seize Jews and other people to send them off to concentration camps and murder. To intern people in order to sterilize or murder them as part of the Euthanasia Program.' The specificity of this definition is immediately belied by the next entries, *Erfassungsamt* and *Erfassungs-GmbH*. For a pre-1933 translation of *Erfassen*, see Muret-Sanders (1900) *Enzyklopädisches englisch–deutsches und deutsch–englisches Wörterbuch*, 2, Deutsch–Englisch, 14th ed. (Berlin-Schöneberg: Langenscheidtsche Verlagsbuchhandlung), p. 331. On *Erfassung* as a concept in Nazi Germany, see further C. Schmitz-Berning (1998) *Vom 'Abstammungsnachweis' zum 'Zuchtwart'. Vokabular des Nationalsozialismus* (Berlin/New York: de Gruyter), pp. 208–10; K.-H. Brackmann and R. Birkenhauer (1988) *NS Deutsch. 'Selbstverständliche' Begriffe und Schlagwörter aus der Zeit des Nationalsozialismus* (Straelen/Niederrhein: Straelener Manuskriptverlag), pp. 65–6; and J. Wietog (2001) *Volkszählungen unter dem Nationalsozialismus. Eine Dokumentation zur Bevölkerungsstatistik* (Berlin: Duncker and Humblot), pp. 17–22.
5. For a summary of this debate, see I. Kershaw (2000) *The Nazi Dictatorship. Problems and Perspectives of Interpretation* (London: Edward Arnold).
6. A summary of some forty of these is in R. W. Kempner (1946) 'The German National Registration System as a Means of Population Control', *Journal of Criminal Law and Criminology*, 36:5, pp. 362–87.
7. Introduction to the history of *Einwohnermeldung* in U. Mahrenbach (1995) *Die informatiellen Beziehungen zwischen Meldebehörde und Polizei in Berlin* (Berlin: Duncker und Humblot); also H. Schroll (2008) '"Das alte Register des hiesigen Meldeamts ist zerstört". Notwendige Bemerkungen zur Berliner Einwohnermeldekartei' in U. Schaper (ed.) *Berlin in Geschichte und Gegenwart. Jahrbuch des Landesarchivs in Berlin 2008* (Berlin: Gebr. Mann), pp. 235–42.
8. Gesetz über das Passwesen, 12 October 1867 (Bundes-Gesetzblatt des Norddeutschen Bundes 1867, 33); cf. A. Fahrmeir (2000) *Citizens and Aliens. Foreigners and the Law in Britain and the German States 1789–1870* (New York/Oxford: Berghahn).
9. Franz Kafka (1935, ed. 1969) *Der Prozess* (London: Heinemann); my translation.
10. In Germany the Catholic churches instituted baptismal and marriage records in the 1560s as part of the Tridentine reforms, and death registration in 1614; the evangelical registers were mostly introduced by state rulers in the eighteenth century; D. Schulle (2002) *Das Reichssippenamt. Eine Institution nationalsozialistischer Rassenpolitik* (Berlin: Logos), p. 123.
11. See P. Hinschius (1876) *Das Reichsgesetz über die Beurkundung des Personenstandes und die Eheschliessung vom 6. Februar 1875* (Berlin: J. Guttentag), Einleitung.

12. S. Maruhn (2002) *Staatsdiener im Unrechtsstaat. Die deutschen Standesbeamten und ihr Verband unter dem Nationalsozialismus* (Frankfurt/Berlin: Verlag für Standesamtswesen), pp. 8ff.
13. Schulle (2002) *Das Reichssippenamt*, p. 114.
14. *Ibid.*, pp. 112–22; Maruhn (2002), *Staatsdiener im Unrechtsstaat*, pp. 18–41.
15. See initially F. Wilhelm (1997) *Die Polizei im NS-Staat. Die Geschichte ihrer Organisation im Überblick* (Paderborn: Schöningh); C. Dams and M. Stolle (2008) *Die Gestapo. Herrschaft und Terror im Dritten Reich* (Munich: Beck).
16. U. Marenbach (1995) *Die informationellen Beziehungen zwischen Meldebehörde und Polizei in Berlin* (Berlin: Duncker & Humblot), p. 56: this was through an amendment to the tax code (§165c) contained in the Steueranpassungsgesetz, 16 October 1934 (RGBl 1934 I, 925).
17. Gesetz über das Pass-, Ausländerpolizei- und Meldewesen, 11 May 1937 (RGBl 1937 I, 589).
18. Personenstandsgesetz, 3 November 1937 (RGBl 1937 I, 1146).
19. Reichsmeldeordnung, 6 January 1938 (RGBl 1938 I, 13).
20. Marenbach (1995) *Die informationellen Beziehungen*, pp. 51ff.
21. See Aly and Roth (1984) *Die restlose Erfassung*, pp. 44–52; E. Liebermann von Sonnenberg and A. Kääb (1939) *Die Volkskartei. Ein Handbuch* (Munich/Berlin: Kommunalschriften-Verlag).
22. RdErl. 18 January 1939 (RMBliV 1939, 115); Heide, *Punched-Card Systems*, pp. 239f. Documentation on abandonment in BAL R 43II/659, pp. 24–56; and RdErl. d. RMdI, 'Vereinfachung der Verwaltung; hier: Volkskartei', 18 August 1943 (MBliV 1943, 1343).
23. Wietog (2001) *Volkszählungen unter dem Nationalsozialismus*; Milton (1997) 'Registering Civilians and Aliens in the Second World War', pp. 79–81; Schulle (2002) *Das Reichssippenamt*; E. Ehrenreich (2007) *The Nazi Ancestral Proof. Genealogy, Racial Science and the Final Solution* (Bloomington, IN: Indiana University Press).
24. See M. Gailus (ed.) (2008) *Kirchliche Amtshilfe. Die Kirche und die Judenverfolgung im 'Dritten Reich'* (Göttingen: Vandenhoek and Ruprecht); Ehrenreich (2007) *The Nazi Ancestral Proof*, pp. 140–9; also p. 78 for a note on terminology.
25. VO über Kennkarten, 22 July 1938 (RGBl 1938 I, 913). 1 October 1938 was the date the regulations came into force.
26. Documentation for 1935–6 in BAL R 2/12200. The quotation is from remarks by the (unnamed) representative of the police department of the interior ministry in a discussion of the issue on 23 July 1935 (finance ministry memo, 25 July 1935). See also the draft *Begründung* to §2 of the 1937 passport law, pointing to abuses inherent in the lack of a uniform ID document; BAL R 43II/411, p. 21.
27. Ordnungspolizei nach dem Stande vom 1.12.1938, Anlage 3, p. 3; BAL R 19/374.
28. VO über Kennkarten, 22 July 1938 (RGBl 1938 I, 913).
29. 1. Bekanntmachung zur VO über Kennkarten, 23 July 1938 (*ibid.*, 921).
30. 2. Bekanntmachung, 23 July 1938 (*ibid.*, 922). This was the '*kleiner Grenzverkehr*', which gave residents of specified frontier regions permits to cross international borders on country roads and paths without having to go through a frontier post with a passport.
31. 3. Bekanntmachung, 23 July 1938 (RGBl 1938 I, 922).

32. See 'Bitte, Ihre Kennkarte,' *KB* (possibly *Der Kommunalbeamte*), 27 August 1938; 'Ich bin Kenn-Nummer Oranienburg 1483. Kreisblattbesuch bei der Kennkartenstelle der Oranienburger Polizeiverwaltung', *Niederbarnimer Kreisblatt*, 7 October 1940 (both in LAB A Rep. 092 Nr. 311); RdErl. d. RFSSuChdDtPol im RMdI, 10 August 1938, 'Anstellung von Personalausweisen durch die Ortspol.-Behörden' (RMBliV 1938, 1708).
33. See finance ministry internal memo dated 1 December 1936 on a 26 November 1936 meeting of representatives of the customs administration, war ministry, foreign office and office of the Führer's Deputy, called by the Hauptamt Sicherheitspolizei (BAL R 2/12200).
34. Passports: VO über Reisepässe von Juden, 5 October 1938 (RGBl 1938 I, 1342). Names: 2. VO zur Durchführung des Gesetzes über die Änderung von Familiennamen und Vornamen, 17 August 1938 (RGBl 1938 I, 1033); the additional names were to be registered at a Standesamt by 1 January 1939.
35. Polizeipräsident in Berlin, instruction sent to party and state authorities, 14 August 1940; LAB A Rep. 092, Nr. 311, pp. 82–3.
36. Willy Cohn (1975) *Als Jude in Breslau – 1941. Aus den Tagebüchern von Studienrat a. D. Dr Willy Cohn* (Jerusalem: Bar-Ilan University Institute for the Research of Diaspora Jewry), p. 79.
37. VO über den Pass- und Sichtvermerkszwang sowie über den Ausweiszwang, 10 September 1939 (RGBl 1939 I, 1739); RdErl d. RFSSuChdDtPol. im RMdI, 'Ausweispflicht', 30 January 1940 (RMBliV 1940, 218).
38. Para. 4 of 10 September 1939 VO.
39. OKW to StdF Stab, 28 February 1940; BAL R 2/11659.
40. Among others, Alsace, Lorraine, Luxemburg, the protectorate of Bohemia/Moravia and the incorporated eastern territories. See further documentation for February–March 1940 in *ibid*.; also VO zur Ergänzung der VO über Kennkarten, 5 December 1941 (RGBl 1941 I, 751), and RdErl d. RFSSuChdDtPol. im RMdI, 'Ausdehnung des Kennkartenverfahrens in räumlicher und personeller Hinsicht', 17 March 1942 (MBliV 1942, 595).
41. RdErl d. RFSSuChdDtPol. im RMdI, 15 July 1942 (MBliV 1942, 1511).
42. RdErl d. RFSSuChdDtPol. im RMdI, 2 September 1943 (MBliV 1943, 1416). Separate stipulations were made for Jews reaching the age of 16.
43. J. Schwersenz and E. Wolff (1969) *Jüdische Jugend im Untergrund. Ein zionistische Gruppe in Deutschland während des Zweiten Weltkrieges* (Tel Aviv: Verlag Mitaon), pp. 73–4; later version J. Schwersenz (1988) *Die versteckte Gruppe* (Berlin: Wichern-Verlag), pp. 116–22.
44. H. Krains (1908) *L'union postale universelle. Sa fondation et son développement* (Berne: Gustave Grunau), pp. 88–9; A. Meyer (1908) *Die deutsche Post im Weltpostverein und im Wechselverkehr. Erläuterungen zum Weltposthandbuch und zum Handbuch für das Wechselverkehr* (Berlin: Julius Springer), pp. 300–6.
45. Meyer (1908) *Die deutsche Post*, p. 305.
46. *Berlin und die Berliner. Leute. Dingen. Sitte. Winke* (Karlsruhe, 1905).
47. Meyer (1908) *Die deutsche Post*, p. 302.
48. See Gesetz über die Weltpostverträge, 23 November 1921 (RGBl 1921, 1375): Weltpostvertrag, Art. 9, and June 1925 (RGBl 1925 II, 1375): Weltpostvertrag, Art. 32.
49. Amtsblatt des Reichspostministeriums 1939, 983, Nr. 690/139; see also *Berliner Lokal-Anzeiger*, 28 December 1939 (copies of both in LAB A Rep 092, Nr. 311).

50. B. Kosmala and C. Schoppmann (eds) (2006) *Sie blieben unsichtbar. Zeugnissse aus den Jahren 1941 bis 1945* (Berlin: Museum Blindewerkstatt Otto Weidt), p. 100.
51. See letter from H.'s lawyer, Ephard Morisse, to Landgericht, 2 March 1942 (documentation in LAB A Pr. Br. 358–02, Nr. 5389/1 and 5389/2).
52. B. Kosmala (2007) 'Stille Helden', *Das Parlament*, 14 February 2007.
53. A. and R. Schmid (2005) *Im Labyrinth der Paragraphen. Die Geschichte einer gescheiterter Emigration* (Frankfurt: Fischer), pp. 84–6.
54. Gedenkstätte Stille Helden: Ilse Lewin und Greta Schellwort (URL: http://www.gedenkstaette-stille-helden.de/stille_helden.html [accessed 24 March 2011].
55. P. Schneider (2001) *'Und wenn wir nur eine Stunde gewinnen …' Wie ein jüdischer Musiker die Nazi-Jahre überlebte* (Berlin: Rowohlt), Ill. 10.
56. M. Kracauer (1947) *Lichter im Dunkel* (Stuttgart: Behrend-Verlag), p. 32.
57. *Ibid*., pp. 101–2, 130. For further examples, see M. Roseman (2001) *The Past in Hiding* (London: Allen Lane), p. 218, and H. Schramm (2012) *Meine Lehrerin, Dr Dora Lux: 1882–1959. Nachforschungen* (Reinbek: Rowohlt). I am indebted to Dr Schramm for allowing me to see a copy of her manuscript, and for further references.
58. Reichspostminister instruction to Reichspostdirektionen, 26 October 1938 (BAL R4701/115410, reprinted in W. Lotz (2002) *Die Deutsche Reichspost 1933–1945. Eine politische Verwaltungsgeschichte. Ausgewählte Dokumente* (Koblenz: Bundesarchiv, Bd. 11, Materialien aus dem Bundesarchiv), doc. 265, p. 255.
59. See Präsident der Reichspostdirektion Berlin to Reichspostminister, 5 November 1938; BAL R4701/11541.
60. *Amtsblatt des Reichspostministeriums* 1940, 253, Nr. 143: 'Postausweiskarten' (LAB A Rep 092, Nr. 311); see also documentation in BAL R4701/11541.
61. Lotz (2002) *Die Deutsche Reichspost 1933–1945*, doc. 534, p. 521, 'Postausweiskarten', 19 January 1943.
62. *Völkischer Beobachter*, 29 March 1944, 'Ihren Ausweis, Bitte!' (LAB A Rep 092, Nr. 311).
63. Präsident der Reichspostdirektion Frankfurt to Reichspostminister, 24 June 1942; BAL R4701/11541.
64. *Wirtschaftsblatt*, 6 November 1943 (LAB A Rep 092, Nr. 311).
65. RMdI Schnellbrief to subordinate offices, 15 July 1943 (LAB A Pr Br 057, Nr. 370; no returns filed in this location).
66. Gesetz zur Änderung des Reichsstrafgesetzbuchs, 4 September 1941 (RGBl 1941 I, 549). The issue was quite technical and involved both the definition of and penalties for an offence of forging ID documents; see R. Vortisch (1943) 'Die Bestrafung des Fälschens und des Missbrauchs von Personalausweisen nach dem Gesetz zur Aenderung des Reichsstrafgesetzbuchs vom 4. September 1941 im Vergleich mit dem früheren Recht', PhD dissertation, Tübingen.
67. RFSSuChdDtPol. Schnellbrief to subordinate police offices, 5 December 1942 (BAL R 19/275).
68. Jews: Polizeiverordnung über die Kennzeichnung der Juden, 1 September 1941 (RGBl 1941 I, 547); regulations for foreign workers are too numerous to list, but see *Allgemeine Erlass-Sammlung des Chefs der Sipo und des SD, Teil 2: Personenstands-, Staatsangehörigkeits- und Ausländerangelegenheiten*, e.g., pp. 150ff, 204ff (copy in BAL RD 19/3).

69. E.g., Chef d. OKW to Reich Finance Minister, 11 March 1940 (BAL R 2/11659).
70. See, for example, prosecutions of Jewish offenders against the regulations on *Kennkarten*, star badge and compulsory names; individual cases in LAB A Rep. 341-02.
71. Ongoing work on the *Volkskartei* was suspended in August 1943; see RdErl. d. RMdI, 18 August 1943, 'Vereinfachung der Verwaltung. Hier: Volkskartei' (MBliV 1943, 1343); but see Aly and Roth (1984) *Die restlose Erfassung*, pp. 116–40, for continuing work on labour mobilization.

14

What Do You Think the Household Register Is? Perceptions of *Koseki* Relating to Social Order and Individual Rights in 1950s and 2000s Japan

Karl Jakob Krogness

> There are some scholarly people dangling in the Western cultural winds, who tell us that the civil code is the foundation. […] But if we use our good Japanese sense and let the household registration law, which has existed since time immemorial, stand on its own and thus make use of both laws conjointly […] that, I think, would preserve the national essence of our country.[1]

Introduction

Systems for documenting individual identity contribute to the creation and maintenance of social order and at the same time provide the very basis for claiming individual rights.[2] Individual documentation systems may therefore offer windows through which we can examine the relationship that exists between social order and individual rights at a given time. One approach is to examine the popular perceptions that surround a particular system. Further, if conducted over time such examinations could reveal shifts in the way social order and individual rights are perceived.

In its investigation of such shifts, this chapter compares two qualitative investigations that, separated by half a century, explore the popular perceptions surrounding the Japanese household register – the so-called *koseki*.[3] The legal sociologist Masayuki Yamanushi (1925–64) in 1956–7 conducted a semi-structured survey of the prevailing *koseki*

consciousness among registrants.[4] The present author re-enacted this inquiry during 2009 and will here delineate how *koseki* has gone from being seen as the very thing that secures social order to be identified today as the main barrier to achieving individual rights. To examine these shifts further, we first need an historical context.

The *koseki* system

Koseki until 1871

Koseki has for over thirteen centuries been a crucial means to grasp the Japanese population and secure social order.[5] During the Taika Reforms (645–9), Japan adopted household-based administrative registration from Tang China to create a central government and consolidate imperial power.[6] This ancient *koseki* system targeted the general population whereas the elites were registered separately by way of genealogies. By the 9th century, this *koseki* system had largely fallen into disuse. Within the first decade of the Edo period (1603–1868), the first Tokugawa shogun reintroduced comprehensive household registration in the form of sectarian inspection records (*shūmon aratamechō*). These sectarian inspections, which was a system for identifying and rooting out *Kirishitan* (Japanese Christian believers),[7] melded over time with the individual census record system (*ninbetsuchō*). This household-based register was introduced some decades later to serve tax and labour extraction purposes. As non-compliance with the sectarian inspections was a capital offence, *kirishitan* were soon eradicated, but combined with the census records, sectarian inspections continued until 1871.[8]

These two registers targeted the status classes of farmer, artisan and merchant, about 90% of the population. Outcast status classes were registered in separate registers whereas elites such as samurai and nobility, whose privileges included holding surnames, were recorded in genealogies.

Koseki from early Meiji until 1945

After the fall of the Tokugawa shogunate and the restoration of the Emperor in 1868, the new government embarked on creating a European-style nation state. To facilitate a mobile workforce and precise census data, an embryonic nationwide and individual civil status registration system was enacted by Imperial Edict in 1871.[9] A nationwide and unified census of households was carried out in 1872. This

first modern *koseki* system fused European and Edo-era registration styles. Edo-era status classes were abolished, creating a unified nation of 'commoners' (*heimin*). Lacking surnames, the non-elite segments were ordered to take one for registration purposes. Still, Edo-era status classes remained within the individual household register as the 'commoners' were subcategorized by 'family class' (*zokushō*, for example, as 'nobility', 'samurai', 'peasant', or by occupation category, some of which revealed former outcast status).

As a law, the 1871 Edict was rudimentary, but the steady accumulation of directives and answers to registrars' inquiries articulated in ever more detail stipulations and procedures befitting a modern household-based civil status registry. The '1886 Koseki Regulations'[10] systematized these innovations pertaining to registering the administrative family. Indeed, this registration unit, or *ko* unit, provided a new basis for the ongoing civil code drafts relating to family law.[11]

The drafting of a civil code, which began in 1870, provoked a prolonged debate between progressives championing a code based upon the individual and conservatives, who stressed the unit of the household. During deliberations of the first and ultimately unsuccessful civil code bill at the First Imperial Diet in 1890, the conservative faction highlighted the practical and ideological merits of *koseki* registration. In addition to providing general administrative control of the individual and facilitating police matters and taxation, *koseki* also installed in each household a household head who served the state in two ways: first, as a family supervisor, who ensured that the traditional 'logic was not destroyed'[12] and secondly, by having the duty to support the young and the old. By facilitating the latter, the *koseki* system represented, according to one lawmaker, 'simply the government's duty to safeguard the welfare of society'.[13]

Koseki-based registration was also important ideologically for the formulation of a modern discourse on Japan centred on the emperor and bolstering the centralized state. *Koseki* could, arguably, by organizing the nation administratively into concrete hierarchical family dyads comprising a household head (*koshu*) and his household members (*kazoku*), make tangible the ideas of the 'family state' (*kazoku kokka*) and the emperor system (*tennōsei*) that presented Japan as nation of branch households led by the main house of the Emperor. The administrative household head/household members relationship reflected thus in miniature the Emperor heading his 'nation of households'.

To create this familial and national order, *koseki* should work *in conjunction* with the civil code, not *within* it as, for example, the Code Napoléon (1804), which incorporates a section on individual civil status registration, the *Actes de l'État Civil*. As the House of Peers member Yasushi Miura explained in 1890:

> Rather than making civil status registration a part within the family section of the civil code, we will extract it and lay it down as a special law. The reason being, that given the existence of the ancient custom of honouring the household [*ko*], the household head [*koshu*], and lineage, we are doing our best to appreciate that which we find within the current Koseki Law and which has been honoured in *koseki* laws since ancient times.[14]

Miura's approach was ultimately reflected in the 1898 Civil Code and the accompanying and greatly expanded 1898 Koseki Law. Together they institutionalized a new family model, stipulated by the substantive Civil Code and materialized by the procedural Koseki Law.[15] 'Family' was indicated in the Civil Code by *ie* – a term meaning 'family', as well as 'house', as in 'the house of Usher' – and by *koseki* in the Koseki Law. Already in the early 1890s, Masaakira Tomii (1858–1935) indicated this conflation of *ie* and *koseki* in these comments on how the civil code should refer to family:[16]

> […] but [*ie* and *koseki*] feel different, so within a civil code, which determines private law claims of rights and obligations and is unrelated to administrative procedures, the word *ie* seems better than a word like *koseki*.[17]

The *koseki* household was thus projected into the Civil Code as *ie* – a clearly invented tradition wherein aspects of Edo era family structures and registration principles intermixed with aspects of their European counterparts. This *ie* rested on five pillars, three of them being the basic *koseki* principles that individual status data is (1) organized so as to form *ko* units, (2) collected via notifications submitted by the household itself, and (3) publicly accessible via *koseki* copies (*kosekitōhon*) for documentation purposes. The remaining two pillars were the Civil Code stipulations that pronounced 'the authority of the household head' and 'the right of primogeniture'.

A *koseki* copy constitutes official documentation of identity, as well as a manifestation of one's family on paper, which emerges from the

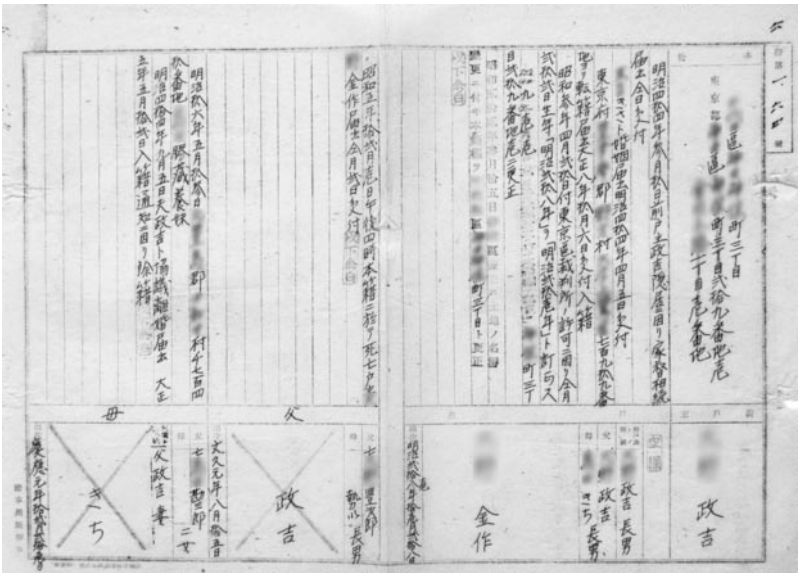

Figure 14.1 Sheet from a *Koseki* Household Register, Meiji 31 (1898)
Note: Established Meiji 44 (1911), the register lists 18 individuals. Subsequent to (1), the household head (*koshu*), are listed 17 household members (*kazoku*), identified by their relationship to the household head in the following order: (2) father, (3) mother, (4) wife, (5) eldest son, (6) eldest daughter, (7) second son, (8) older sister, (9) younger sister, (10) younger sister, (11) younger sister, (12) second daughter, (13) wife [of eldest son]), (14) grandchild, (15) grandchild, (16) wife [of second son]), (17) wife [second wife of eldest son]), (18) grandchild. This page only lists registrants 1–3. The lower right column lists 'former household head', who is here identical to the household head's father.

On either side of the names in the bottom columns are listed date of birth (left) and parentage (right), immediately over each name, his or her relationship to the household head, and in the columns above that, his or her civil status items. Exits from the register are marked with a red X over the exiting individual's name (exit events include, for example, marriage, adoption, death, divorce or disappearance).

Produced 26 September 1945, shortly after Japan's defeat on 15 August, this copy is most likely a sample given the Government Section, who oversaw the legal reforms of the prewar Civil Code and Koseki Law. Surnames, as well as *honseki* (registered localities) have been blurred by the author to anonymize the register.
Source: National Archives at College Park, MD, USA. *Records of the General Headquarters Supreme Commander for the Allied Powers (GHQ SCAP)*, Record group 331, Box 1525.

accumulation of past and present data on each individual member. As such, the *koseki* copy provides its registrants, as well as larger society with a neat overview of intra-family hierarchies and relations. What a family may enjoy as a 'family tree' is also a tool for social surveillance

that, until the last few decades, has been available to interested third parties for a fee.

The post-1945 *koseki* system

The primary goal of the Supreme Command of the Allied Powers (SCAP) was to democratize Japan, and in September 1945, SCAP's Government Section (GS) embarked on reforming the Civil Code. *Koseki*'s deeper role was less well understood by GS but it was nonetheless reformed so as to reflect the new democratic family model.[18] The Revised Civil Code appeared on 1 January 1947, accompanied by the Revised Koseki Law,[19] and in tandem they now stipulated and materialized a two-generational family, comprising the conjugal couple and their children sharing the same surname.

Deeming an immediate revision of the tens of millions of existing registers impractical, it was decided to phase in the new two-generational registers over a ten-year period. New-style *koseki* registers were issued to marrying couples, gradually introducing the modern conjugal family model and gently weaning the registrants from the *ie* system. As of 1957, 57% of all *koseki* remained in the pre-war format.[20] In other words, the pre- and post-war family models coexisted when the ten-year changeover period ended.

The 1947 system turned marriage into a union of a man and a woman, resulting in the establishment of a new conjugal *koseki*. Under the *ie* system marriage primarily entailed the household head's *admission* of a bride into his existing register. The registration of a marrying son (or uncle or brother) would thus not change. This exemplifies the central *ie* principle of the authority of the household head. This authority was abolished, yet since *koseki*'s three *ie*-materializing principles remained within the new 1947 Koseki Law, the male prerogative continued.

The figure of the household head, who was the fulcrum of the hierarchical/patrilineal household unit, was replaced by the more abstract 'same conjugal surname' principle, which requires couples to select one of their surnames as their conjugal surname. The person whose surname is chosen becomes 'first registrant', indexing the conjugal register. One sign that this principle effectively upholds patrilineal norms is that even today only 2% of young couples choose the female partner's surname. Further, a profound concern for registered conjugality, legitimacy and social acceptance compels women to take the husband's surname.[21] The principles of notification and public access also infringe in various ways on individual rights. In the early 1920s, the Buraku liberation movement began campaigning for a revision of the *koseki* system, as its

registers were widely consulted by companies, families, individuals and journalists to reveal descendants of the Edo period outcast status class. Only from 1968 onwards did this movement use incremental revisions of the public access principle. Within the last four decades have other discriminated segments (e.g., unmarried couples, illegitimate children and people with Gender Identity Disorder) fought their own particular *koseki*-related discrimination issue. Recently, in 2010, the Hatoyama cabinet promised to improve gender relations with an 'optional separate conjugal surname system' bill, but it was ultimately shelved in the face of conservative opposition, which argued that it was the shared surname that binds the family and thereby all of society together.

The background for the two surveys

Separated by fifty years, the two surveys were conducted in quite dissimilar times. Yamanushi's respondents were living in a period when Japan was transitioning from post-defeat chaos towards becoming an advanced industrial power and was mid-stream, as it were, between family models; that of 'beautiful custom' and that of 'democracy'. The 2009 respondents have lived for two decades in the economic doldrums, and the conjugal, nuclear family is hegemonic. Yet, norms and imaginaries that reflect the *ie*-type family remain alive within contemporary discourse. One contemporary phenomenon that may signal the remaining vestiges of *ie* that exist within the present *koseki* system is the currently very popular metaphor for marrying – 'to enter the register [of my husband]' (*nyūseki suru*).

The 1956–7 survey

Yamanushi aimed to explore the contemporary '*koseki* consciousness' (*koseki ishiki*), which was a central concept within the Ie System Research Group (*Ie seido kenkyū kai*, 1953–5), in which he, Toshitani, Bai and other members conducted seminal *koseki* research. Legal scholar Fukushima Masao (1906–89) founded the group to conduct 'concrete research' from the viewpoint of the *koseki* system as since Meiji times it had acquired such a central role within Japanese society:

> The *ie* system [...] has come to underpin the consciousness of the Japanese. The people's conscious attitude towards entries into and exits from registers, and register compilation is self-evident, but also the various matters pertaining to marriage and divorce and the realities and the consciousness surrounding support of relatives are especially important examples of the functions of *ie*.[22]

The focus on *koseki* consciousness, in turn, was influenced by the 'father' of Japanese legal sociology, Takeyoshi Kawashima (1909–92), who was interested in popular perceptions of law and noted in *The Familial Structure of Japanese Society* (1948) that prevailing family patterns impeded the democratization of Japanese society, and that critical inquiry into the family itself, in turn, was impeded by a Confucian samurai-class-type family ideology that suffused society – an ideology often glossed as 'the beautiful custom'.[23]

Yamanushi's questionnaire comprised three parts: (1) on *koseki*, (2) on marriage and (3) on various individual questions.[24] The first part comprised one question: 'What do you think *seki* (we can also call it *koseki*) is? Please write freely what you think – not your legal knowledge.' Distributing the questionnaire with the help of first-year university students at the Tokyo Women's Art University who were returning to their home towns around Japan, Yamanushi's respondents were these students' parents. Out of 450 questionnaires, 346 (77%) were returned.[25] Given this distribution method, the majority of respondents are most likely middle- to upper-class parents.

The 2009 survey

The 2009 survey was a six-page questionnaire that on the first page restated Yamanushi's question verbatim.[26] It was distributed throughout the country with the help of various Japanese contacts. Since the conjugal family pattern is so prevalent, I urged my contacts to forward survey forms to non-normative individuals (e.g., divorcees, unmarried mothers, homosexuals). I also targeted activists, who oppose (aspects of) the *koseki* system.[27] Additionally, I surveyed students at four universities. The respondents totalled 268, with 39 'Activist', 110 'Student', and 119 'General' respondents. Since I permitted my contacts to forward my survey by e-mail, the response rate is unknown. The number of respondents in my survey is somewhat lower, but the two respondent groups are fairly balanced in terms of gender and age.

Neither survey is representative of the general population. Further, only my 'General' category is somewhat comparable to Yamanushi's respondent group. With the Activist and Student categories, it clearly deviates from Yamanushi's method, but I deemed it important to secure a wider swath of present-day popular perceptions.

In both surveys the individual respondent would often make several associations, and analysing his responses, Yamanushi found that, at 69%, the most prevalent category was 'order', or *chitsujo*, a term denoting order, discipline, system, regularity and method. In the 2009 survey,

Table 14.1 Number of respondents by age and gender

Age	1956–7 survey			2009 survey			
	M	F	All	M	F	FTM	All
80s	–	–	–	2	2	–	4
70s	–	–	–	1	3	–	4
60s	12	12	24	13	6	–	19
50s	39	30	69	14	24	–	38
40s	94	77	171	13	15	–	28
30s	34	29	63	14	26	–	40
20s	1	2	3	59	50	1	110
10s	–	–	–	19	5	–	24
NA	9	7	16	1	–	–	1
Total	189	157	346	136	131	1	268
%	54.6	45.4	100	50.7	48.9	0.4	100

Note: M: male, F: female, FTM: female to male, NA: no answer.
Source (1956–7 survey data): Yamanushi (1962).

Table 14.2 Number and percentage of responses by survey, category and respondent segment

1956–7		'Order'	
All respondents	346	239	69%
2009		**'Rights'**	
All respondents	268	72	27%
• Activist	39	26	67%
• General	119	31	26%
• Univ. students	110	15	14%

Source: Figures for 1956–7 based on Yamanushi (1962).

no respondents used the term 'order', but there were clearly related themes, such as 'control' and the order represented by 'family' In the Yamanushi survey the individual was rarely mentioned, whereas associations to 'rights' or themes signalling 'right' (e.g., 'the individual' and 'discrimination') were quite prevalent in the later survey.

What follows here are representative examples of responses associating *koseki* to the categories of order, family, control, discrimination and the individual. Quotes in *italics* signify responses from the 1956–7 survey; plain text quotes derive from the 2009 survey. Round parentheses indicate

interjections by the respondent. Square brackets indicate my additions. In round parentheses are also given the individual respondent's 'place of longest residence', 'age' and 'gender'. In the Yamanushi quotes, 'gender' is followed by page references to Yamanushi's 1962 article.

Perceptions of *koseki* relating to social order and individual rights

A few respondents in the Yamanushi survey associate *koseki* with official procedures related to earlier times. A 49-year-old woman uses matter-of-factly a shorthand term for the Edo-era sectarian censuses:

> *Koseki* is a ledger where the individual census [*ninbetsu*] is recorded. A family-based state ledger that clarifies the relations between family members and other kin, and records *honseki* [an index item indicating the administrative location of the register]. (Nagano 49 F, p. 251)

A 65-year-old man associates *koseki* with police oversight of registrations:

> By having this register, you are recognized as Japanese. By way of the register, every aspect of individual daily life is guaranteed by the state and the police come by several times a year to check *koseki* so as to secure each family's welfare. If your register is approved, you can live contentedly, and if not, your security is not guaranteed in any way. (Fukushima 65 M, p. 251)

Yamanushi finds his two examples remarkable for their anachronistic associations with *ninbetsu* and *koseki shirabe* (*koseki* examinations, or background checks), noting they may indicate that these respondents feel those long-ago administrative realities are not that remote.

The 2009 survey has 11 historical answers. Three are from General respondents who simply relate facts related to *koseki* history. The remaining eight are Activist responses whose critiques of the present *koseki* system invoke various Edo-era and pre-war phenomena, for example:

> By excluding the Imperial family, it sustains the emperor system [*tennōsei*]. (Tokyo 44 M)[28]

> Rooted in patriarchy (the emperor system), it is a device that promotes all sorts of discrimination. (Hiroshima 39 F)

> It is a relatively new Japanese tradition. The Confucian influence is clear. The unit of the house rather than the individual. Patrilinealism. (Aichi 45 M)
>
> A remnant of the [Edo era] status system. (Tokyo 52 F)

The Activists' respondents generally exhibit knowledge of *koseki* history that most likely stems from the rather extensive literature that exists relating to the particular *koseki*-related issue that each advocates.

General order, state order and moral order

Let us now turn to Yamanushi responses that directly or indirectly refer to order, beginning with these, not infrequent, sweeping statements:

> The register unifies. (Tochigi 40 W, p. 223)
>
> The register is indispensable for preserving the social order. (Tokyo 50 W, p. 223)

Many responses more specifically stress that the state order rests on *koseki*:

> *Koseki* most importantly preserves the state order by entering people in the register. (Tokyo 40 W, p. 224)
>
> The register is the order of the state. If there were no register, the order of the state would surely fall apart. (Tokyo 37 W, p. 224)

Koseki also underpins society and the everyday order of things:

> If we did not have *koseki*, chaos would arise. This society would fall into paralysis and life could not go on. (Yamanashi 38 W, p. 223)
>
> For the working adults the register is indispensable for preserving social order. Without the register we would be like savages. The register is also necessary to prevent crime and to protect our children and grandchildren. (Kantōshū 44 W, p. 223)

Finally, *koseki* registration is also important for the individual:

> *Koseki* shows you are a member of the nation. It details your address and human relations, and provides the basis for your rights and duties as a national. (Fukuoka 54 M, p. 225)

The latter response could be interpreted as expressing a focus on the individual and even individual rights. It is, however, more likely that this respondent sees individual rights and duties as arising from the individual's integration as a particle within the larger social or family order, so as to secure this order. As so many of his fellow respondents explicitly state:

> The register is proof that such-and-such person has been publicly recognized by the surrounding society [*seken*]. Should there be a person who has never even once been entered into the register, that person would cause disorder and would, in terms of the household register, be unborn in this world. (Kanagawa 38 W, p. 225)

> It clarifies a person's whereabouts and if that were not known – if we did not know where that person is and what he or she is doing – then we would have a completely unsafe society. (Tokyo 48 M, p. 225)

> To not be entered into the register is to not be legally recognized as an individual and for that reason, socially, such a person would put society in disorder. (Toyama City 38 W, p. 223)

The view in the early survey, that *koseki* holds chaos, paralysis, savagery and barbarism at bay, is certainly also related to their fairly recent memories of the ruins Japan was in just a decade earlier. Intensive allied city bombardments late in the war laid cities waste, also incinerating many *koseki* offices. According to Nobuyoshi Toshitani, to recreate the lost records, the state harnessed the despair of the populace whose survival hinged on identification (e.g., for rationing cards). It was at this time that people realized the *vital* importance of *koseki* registration but they had also lost confidence in the state's power. Registrants who came to recompile their registers would express their anger to the *koseki* registrars, saying, for example: 'We cannot leave something as important as *koseki* to you guys.' Others refused to co-operate with the recompilation process, stating, 'I have my own *koseki*,' or 'I don't want the *koseki* of a defeated Japan.'[29] In other words, the *koseki* document produced by the state was not just a crucial ID. It had subjective value, was seen to be a personal property; even as something they might better produce on their own.

The sense that *koseki* represents order is partly related to its role as providing the underpinnings of the *ie* system. The administrative inventions of *koseki* and its *ie* brought into the modern period the hierarchical

familism of the Edo military elites and effectively suffused society with an iteration of its morality and structures from the level of family to the level of state. The following quotes may reflect the respondents' perceptions of living within that order (incidentally, the first quote is from a high school teacher):

> *Koseki* makes us aware of our affiliation as constituent members of society. It gives us a moral responsibility and is indispensable for our participation in normal social proceedings. (Yokohama 31 M, p. 224)
>
> Legislation such as *koseki* is essential for safeguarding order and morality, set standards, and unifying society. (Yamanashi 52 M, p. 224)
>
> *Koseki* is terribly important because morals are safeguarded by it. (Tokyo 38 M, p. 224)

In aggregate, the respondents in Yamanushi's survey, then, agree with the following view that *koseki* is exceedingly important at every level of society:

> The register represents one's whereabouts – at the smaller level within the family or the city, town, and village, as well as at the larger level of the state. It would be unthinkable for a citizen of the state not to have a register. I often hear about marriages that lack a register, children that lack a register, and people, who lack a register, and I suppose you could live like that if you were Robinson [Crusoe], but it is an impossibility as a member of present-day national society. (Gifu 37 W, p. 224)

The metaphor of Robinson Crusoe is suggestive. The post-war *koseki* system does facilitate one-person *koseki* (i.e., a household comprising only a first registrant), and a few *koseki* opponents see this as a way to mimic individual registration. Yet to most, it is an incomprehensible household type, and some young Japanese would not consider it, as they feel the parental register signals good family ties.[30] The solitary, lonely existence of Robinson Crusoe, then, may be an apt metaphor for how some Japanese imagine how it would be to live as an individual, unfettered by familial and social obligations. Indeed, in the 2009 survey, 'order' has been domesticated, as it were. Students especially associate *koseki* with the unit and the unity of family.

The order of the family

The Yamanushi survey has several responses that directly or indirectly associate *koseki* with family. These first three suggest that *koseki* in itself represents a social unit:

> To form a society, a basic unit is needed. The register is this basic unit. The register is a sort of unit that unambiguously recognizes that the persons in the register do belong in the register. (Tokyo 30 F, p. 225)
>
> *Koseki* is a unit for those who are born into and live in this world (society), and it recognizes that one belongs to the small group of that particular register. (Tokyo Itabashi 44 F, p. 226)
>
> *Koseki* constitutes a big foothold for living and asserting our rights as human beings. *Koseki* is a foothold for people, a unit in this world, and people without *koseki* are inconceivable. (Akita 40 W, pp. 225–56)

Yamanushi notes that if these responses imply the family unit, they only do so unconsciously.[31] Further, the last respondent also equates 'rights' with household membership.

There are also three responses in the 2009 survey that might suggest that *koseki* is a social unit in and of itself. These two suggest that *koseki* is a space or venue where one feels at home:

> Where I belong [*jibun no iru tokoro*]. (Okinawa 18 M)
>
> Where I belong [*jibun no ibasho*]. (Ibaraki 20 F)

The third response simply states:

> My identity [*aidentitī*]. (Osaka 55 F)

This foreign loanword refers not to 'ID' but rather to what characterizes her as a person, including where and to whom she 'belongs'. In a similar vein, the following responses liken *koseki* with the social family:

> Those who are closest to me. (Kyoto 54 F)
>
> Those who are living together as a family after marrying. (Fukui 45 W)

> It is what one becomes upon marriage. *Koseki* is all the members of the family. (Hokkaido 21 M)

Many, especially students, in the 2009 survey think that *koseki* is the foundation for a happy, cohesive family. This thinking is also present in the Yamanushi survey:

> We can say that the register represents the order of the family. There are some necessary rules when a group is to be unified, and we can say the same about a family. Take my older sister, for example. When, after the wedding celebration, she entered the register, she said it made her feel warm and contented. In that way I think that the register is something that morally unifies. (Tokyo 20 F, p. 224)

The older sister, in other words, has found her place in the world: in the safety of being the wife within that particular *koseki*. Such peace of mind comes from possessing the proof that only the conjugal *koseki* can supply:

> When a couple is united, *koseki* shows that they both intend to be husband and wife. It also shows that they have a respectable relation in terms of their children. (Tokyo 39 F, 239)

In the 2009 survey, however, an unmarried woman from Naha, who has no children and is critical of *koseki*, points out that this conjugal peace of mind comes with heavy social expectations:

> It regiments the individual within the framework called family. In the marriage/register relation there is a demand from society that one must shoulder responsibility and duty towards one's partner. (Naha 59 W)

The contented 'older sister' and the mother of this Naha woman are likely of the same generation. Did this woman, perhaps, observe the moral pressures that enveloped her parents and choose to deselect marriage to achieve freedom?

That *koseki*'s moral role still exists today is implicit in this student's response:

> It is something necessary when a man and a woman move in together. (Chitose 21 M)

In other words, living as a couple requires legal marriage. Indeed, according to these female students *koseki* implies familial unity, conjugal security:

> I imagine it as something that bonds a family. I think it is something that can give you, as a member of a family, a sense of safety and a sense of something real. (Nanao 20 W)
>
> Your own identity. Something that in terms of registration connects you and your parents. When you marry, it is something that ties together you and the partner with whom you have exchanged lifetime vows. It documents oneself, as well as important status events, and makes your partner trust you. (Sapporo 21 W)

To these students, *koseki* contributes positively to family: it permits cohabitation and provides qualities such as security, confidence, connectedness, a sense of reality, mutual obligation, and responsibility and duty – qualities that are implicit to conjugality.

All in all, as this Yamanushi respondent notes, the *koseki* order has a controlling side, but it is worth it:

> The household register preserves a social order, and as people enter the register they bear responsibility. So it may be a kind of shackles, but I think that it is a means to establish social order. (Tokyo 50 M, p. 223)

Order as control

For many 2009 respondents, *koseki* represents control, not security. According to this activist, who is affiliated with the Buraku Liberation League:

> It is something that is produced so that the state can control the populace without regard for the will of the people in question. It thrusts a variety of disadvantages on to those people who do not fit neatly into the framework of that system. With patriarchy (the emperor system) at its root, it is a device that promotes various kinds of discrimination. (Hiroshima 39 W)

Several activists find that this control aspect has an insidious side:

> A system that has been in Japan since olden times, regulating the family. It has been used by the state to control the people. (Osaka 38 W)
>
> A system giving the state efficient control. (Tokyo 36 W)

> A tool for constraining the person, and I personally think that it is an apparatus mainly aiming for law and order. (Osaka 44 M)
>
> It feels as if the state is controlling something, for example by registering people as non-legitimate. (Osaka 38 M)
>
> It feels as if it is something for the sake of control, not for the sake of the individual. (Tokyo 56 M)
>
> It is a system that serves to let the state control the way the individual leads his or her life. (Chiba 52 W)

Another female activist from the Buraku Liberation League sums up *koseki* as

> A system that labels people. A suffocating system. *Koseki* and the Japanese-style discriminatory patriarchal system are of a piece and propagated by *koseki*. It is the very system of Japan. (Osaka 52 W)

Order, discrimination and individual rights

Using an *ie*-related term, this Yamanushi respondent brings up *koseki*'s facility to provide insight into families and their history.

> *Koseki* is necessary for seeing the social standing of a family [*iegara*], but it ought gradually to become something used only for background checks in relation to employment or marriage. (Tokyo 35 M, 236)

It would be good, he thinks, if the *koseki*-based mutual control and surveillance is limited to practical purposes, such as establishing ties with strangers. Indeed, with its comprehensive synchronic and diachronic accumulation of individual civil status data, *koseki* constitutes a handy panopticon for getting a sense of strangers and their relations. Today's students are aware of these faculties of *koseki*:

> Something that summarises how a family came to be. (Ibaraki 22 M)
>
> *Seki* is something you show to each other's families when you are getting married. So that both parties can be confirmed. (Hakodate 20 W)

This knowledge of, and matter-of-fact attitude towards, third-party *koseki* inspection is probably a central force that helps corral most registrants from one respectable conjugal *koseki* to the next.

One effect of this general pursuit of identical respectability is that *koseki* for the large majority is unproblematic, even uninteresting:

> There have been no problems such as divorces and marriages in the sphere of me and my parents, so I haven't cared about *koseki* and for me it is therefore just a manifestation of family, or proof of family ties. (Takamatsu 20 W)

Under such a registration regime, the prudent, it seems, ensure that their *koseki* has nothing to hide. This woman, involved with an NGO that seeks to eliminate *koseki*-based discrimination of extra-marital children, looks at this problem from a quite different angle:

> *Koseki* causes people to lose sight of the horror of making one's entire life visible at a glance, the dread of one's privacy coming out in the open, and being wary of showing things to people. (Tokyo 62 W)

Indeed, in a society where one's *koseki* is akin to a social resumé, can the 'right to privacy' be appreciated? If the majority strives to make unexceptional registers, is such a right even important? The general pursuit of unexceptional registers is sometimes detrimental to others:

> I think when someone is not entered into the register, [he or she] is not recognized legally and cannot avoid uncertainty and chaos. Not entering a family member into the register because it is too much responsibility or because it is too much trouble is an irresponsible and cowardly way of thinking and leads to chaos and uncertainty. (Shimane 40 M, p. 222)

To this respondent the solution is individual responsibility and courage. Still, for whom should a daughter, who is to notify an out-of-wedlock birth, take responsibility – the people she shares *koseki* with, or her newborn child? The origin of this moral quandary, however, simply arises from the structure of the *koseki* system and its principles of *ko* unit registration, notification by household and public access.

The previous NGO-related female respondent also highlights *koseki*'s hierarchical implications for families:

> In a family, it lets the person in question and the other house members know, who is the head of the family. The register produced that kind of consciousness. (Tokyo 62 W)

This consciousness has repercussions within larger society:

> It also functions as a tool that unconsciously imprints the everyday sensibilities of people so as to cause them to create social hierarchies as well as mutually discriminate and monitor each other. (Tokyo 44 M)

To be more specific, *koseki* is

> Something that as a matter of course hounds minorities, such as extra-marital children, adopted boys, adopted girls, and people who have divorced, and people who have remarried. (Osaka 43 W)

The hierarchical relations it creates are also gendered and multi-levelled:

> A status system that ties women (to the family and to the state). (Osaka 59 W)

Regional hierarchies are also implemented via *honseki*, the localizing index item, which clarifies the administrative location of the register. As a child, the following respondent was transferred from her unproblematic area of birth, which became her *honseki*, to a well-known Burakumin area. She understood early that even *honseki* can be detrimental for one's life chances:[32]

> My mother and my relatives frequently [said to me] that if we don't change your *honseki*, then no-one will think that you are born in a [*Burakumin*] area, and then you can get married. (Kyōto 75 W)

On the other hand, this lesbian respondent implicitly indicates how *koseki* can also provide a route *out* of discrimination:

> It is the legal family. It gives you the right to be briefed at the hospital and to visit a gravely ill patient. (Chiba 33 W)

Behind this statement is the fact that Japanese law does not permit same-sex marriage or partnerships. Therefore hospitals that only allow family visits prevent same-sex couples from visiting their partners. To solve this, some gay and lesbian couples create a family relation by entering into an adoptive relation.[33]

Koseki thus infringes on individual rights in various ways. Wistfully, one divorcee with two children writes that

> I wish it were a system that respects the person as a person from cradle to grave. (Osaka 49 W)

A public official and activist points out that *koseki* should serve its registrants, and notes that he is very critical:

> They think the municipal office and the *koseki* system it manages ought to exist as privileges of the residents but it's not like that. It would be sufficient with a system that just protected the rights of the individual, and I dislike being all tied up by *koseki*. (Tokyo 56 M)

A fellow activist of the respondent above – a driver living in an unregistered marriage with one child – sums up his impression of the *koseki* system:

> I have a strong feeling that it is an inconvenience. The pressures *koseki* exerts on the individual in everyday life exist in various forms. Starting with the family allowance, *koseki* suffuses the entire foundations and it gives me a sense that individual freedom is put under pressure by the so-called *ie* system. I think that, especially in Japan, it is one reason why so few children are born. (Chiba 55 M)

Fundamentally, though, the problem is that *koseki* does not fit present-day society, says this 70-year-old father of one child, who indicated that he found his wife via a traditional arranged marriage:

> Household registration infringes on human rights because the legislation has not caught up with the actual state of affairs. (Kyōto 70 M)

The case of *koseki*-based registration and its implications

Comparison of the two surveys reveals an evolving perception among respondents that *koseki* is directly related to social order and individual rights. In the 1950s survey, *koseki* is primarily and positively perceived as organizing and subordinating each individual within an all-encompassing order. The respondents in the 2000s survey invoke both order – now confined to the family – and individual rights. Yet the twin desires of forming a family and enjoying individual rights are

incompatible under the *koseki* system because it perpetuates a *de facto* hierarchical/patrilineal family model. There is under the *koseki* system a sense of either/or – that the registrants must choose between either a happy family life or individual freedom. This imbalance will persist and very likely worsen, as long as Japan continues to fit individual civil status data into a prescribed family matrix.

Further, *koseki* elicits from registrants an emotional engagement, in part by mirroring and materializing the surrounding orders and interpersonal relations. More generally, then, the *koseki* case indicates that household-based systems of individual documentation may be a particularly fertile area of research as they reach into the middle ground of the citizen–state relation, informing not only the relations that exist within and between families, but perhaps also within neighbourhoods, schools, workplaces and other social settings.

Notes

1. Takeshige Shimauchi, Member of the House of Peers during the 1st Imperial Diet in 1890. Cited in M. Fukushima and N. Toshitani (1959) *Meiji zenki ni okeru koseki seido no hatten* [The development of the *koseki* system in early Meiji] in M. Fukushima (ed.) *'Ie' seido no kenkyū. Shiryōhen 1* ['*Ie*' system research. Historiography 1] (Tokyo: Tōkyo Daigaku Shuppankai), pp. 28–98, p. 59.
2. J. Caplan and J. Torpey (eds) (2001) *Documenting Individual Identity. The Development of State Practices in the Modern World* (Princeton: Princeton University Press), pp. 1–7.
3. *Koseki* comprise the word *ko* (a counter for houses/households) and *seki* (register). In everyday speech, *seki* generally implies *koseki*.
4. M. Yamanushi (1962) *Kazoku hō to koseki ishiki: 'koseki' ishiki no takakuteki sokumen* [Family law and *koseki* consciousness: Various aspects of '*koseki*' consciousness] in Nihon Daigaku Hōgakukai (ed.) *Minpōgaku no shomondai* [Various problems within Civil Code studies] (Tokyo: Nihon Daigaku Hōgakukai), pp. 215–60.
5. The term *haaku* (to grasp and hold something) is often used by Japanese *koseki* researchers as it conveys the almost physical control the Edo-era liege lord had over his subjects, the control the pre-war administrative household head wielded over household membership and these members' legal status changes, as well as general governmental population oversight and control (e.g., through registration and statistics).
6. Administrative household registration emerged in China around 2100 BCE.
7. See, for example, N.-L. Hur (2007) *Death and Social Order in Tokugawa Japan: Buddhism, Anti-Christianity, and the Danka System* (Cambridge, MA: Harvard University Asia Center), and H. Cieslik (1951) 'Die Goningumi im Dienste der Christenüberwachtung' [The five-man groups in the service of surveillance of Christians], *Monumenta Nipponica*, 7, pp. 102–55.

8. As these two systems often merged regionally, the Japanese literature refers to them collectively as *shūmon ninbetsuchō*, or 'sectarian individual census records'.
9. Imperial Edict No. 170, 4 April 1871.
10. These regulations comprised two ordinances and one directive, all issued by the Ministry of Home Affairs (*Naimushō*): Ordinance No. 19, 28 September 1886: On notifications of birth, death, exit, and entry (*Meiji 19 nen Naimushō Rei dai 19 gō*). Ordinance No. 22, 16 October 1886: *Koseki* transactions and procedures (*Meiji 19 Naimushō Rei dai 22 gō*). Directive No. 20, October 1886: *Koseki* registration form, etc. (*Meiji 19 Naimushō Kunreidai 20 gō*). See Hōmushō Minjikyoku (1969) *Koseki hō nado kaisei keika hōreishū* [Statute book on the progression of revisions of the Koseki Law and other ordinances] (Tokyo: Hōmushō Minjikyoku).
11. N. Toshitani (1987) *Kazoku to kokka: kazoku o ugokasu hō seisaku shisō* [The family and the state: Laws, policies and ideas that influence the family] (Tokyo: Chikuma Shobō), p. 148.
12. 'Logic' (*ronri*) refers to Japan's traditional moral order.
13. Cited in Fukushima and Toshitani (1959) *Meiji zenki ni okeru koseki seido no hatten*, p. 72.
14. Yasushi Miura, member of the House of Peers, cited in Fukushima and Toshitani (1959) *Meiji zenki ni okeru koseki seido no hatten*, p. 73.
15. Household Registration Law No. 12, enacted 15 June 1898 (*Koseki Hō Meiji 31 nen 6 gatsu 15 nichi hōritsu dai 12 gō*). Civil Code (Book 4: Family, Book 5: Inheritance), Law No. 9, enacted 21 June 1898 [Books 1–3: April 29 1896] (*Minpō Meiji 31 nen 6 gatsu 15 nichi hōritsu dai 9 gō*).
16. Legal scholar who studied in Lyon. Member of House of Peers from 1881. Tomii, along with Gustave Émile Boissonade and Ume Kenjiro, is one of the 'fathers of modern Japanese law'.
17. Cited in Fukushima and Toshitani (1959) *Meiji zenki ni okeru koseki seido no hatten*, p. 74.
18. M. Wada (1996) 'Sengo senryōki no minpō/kosekihō kaisei' [Reform of the Civil Code and Household Registration Law in the postwar period], *Hōshakaigaku*, 48, pp. 209–14.
19. Household Registration Law No. 224, 22 December 1947 (*Koseki Hō dai 224 gō, Shōwa 22 nen 12 gatsu 22 nichi*). Law No. 222, 22 December 1947 [Complete revision of the 1898 Civil Code's Book 4: Family].
20. K. Bai (1992) *Sengo kaikaku to kazokuhō: ie, uji, koseki* [Post-war reform and family law: *ie*, surname and *koseki*] (Tokyo: Nihon Hyōronsha), pp. 335–6.
21. K. J. Krogness (2010) 'The Ideal, the Deficient, and the Illogical Family: An Initial Typology of Administrative Household Units' in A. Alexy and R. Ronald (eds) *Home and Family in Japan: Continuity and Transformation* (London: Routledge), pp. 65–90.
22. Fukushima, cited in N. Toshitani (1996) *Kaisetsu* [Commentary] in T. Nobuyoshi (ed.) *Fukushima Masao Chosakushū: Kazoku* [Collected Works of Masao Fukushima] (Tokyo: Keisō Shobō), pp. 501–2. Quotation marks in the original.
23. T. Kawashima (1948) *Nihonshakai to kazokuteki kōsei* [The Familial Structure of Japanese Society] (Tokyo: Gakuseishobō), pp. 3–6.

24. Yamanushi (1962) *Kazoku hō to koseki ishiki*, pp. 215–60. Yamanushi has not discussed this survey elsewhere and this article does not detail part 2 and 3 further.
25. The rationale for this simple open question was to examine what meanings 'the word *seki* (or the vague *koseki* system, embedded in that word) elicits, to examine the (latent) mental form *seki*, which has existed since early Meiji, takes today, and to explore in what ways *seki* consciousness is merging and combining with consciousness of other systems without specifying such systems'. See Yamanushi (1962) *Kazoku hō to koseki ishiki*, pp. 219–20, p. 219.
26. The questions on the following pages do not follow the Yamanushi survey and are not treated here.
27. Groups contacted were Suteppufamirī Asoshieshon Obu Japan (Stepfamily association of Japan): http://www.saj-stepfamily.org, Buraku Kaihō Dōmei Osaka (Buraku Liberation League Osaka): http://www.bll.gr.jp/guide-honbu.html, Singuru Mazaazu Foramu (Single Mothers Forum): http://smf-kansai.main.jp, Nakusō koseki to kongaishi sabetsu/kōryūkai (Association for the Abolition of *Koseki* and Discrimination of Extra-Marital Children): http://www.grn.janis.or.jp/~shogokun.
28. The imperial family is registered in its own genealogy, not within the *koseki* system.
29. Toshitani (1987) *Kazoku to kokka*, pp. 149–50, 156.
30. See Krogness (2010) 'The Ideal, the Deficient, and the Illogical Family'.
31. Yamanushi (1962) *Kazoku hō to koseki ishiki*, pp. 225–6.
32. *Honseki* (literally: original register) indicates the *koseki* office where the *koseki* register is filed by indicating a specific administrative location.
33. The traditional Japanese adoption system permits adoption between adults as long as the adopter is older than the adoptee. The adoptive relation is established the moment the registrar accepts a correctly filled-out adoption notification.

15

Denouncing and Resisting. Identity Assignment Policies in France, 1970–2010

Pierre Piazza

Introduction

In France, ever since the eighteenth century at least, state-controlled manufacturing of individual identities has grown through an accumulation of knowledge, know-how and practices that enabled the authorities to establish everyone's identity with growing certainty and increase their influence on people's personal life experience by collecting, shaping and exploiting growing amounts of individual data that made it possible to rearrange social reality by means of sorting and classification processes.[1] By defining unheard-of codes of identity and creating new obligations (administrative procedures, checks, controls, etc.) for those targeted, the identification tools implemented by the state thus gradually, but dramatically, altered many personal habits, behaviours and trajectories.[2] However, far from having been imposed upon amorphous, passive and helpless individuals, these instruments often seem to have stemmed from power struggle issues. Indeed, identity allocation processes have always been known to raise objections and trigger individual shunning or bypassing strategies, as well as more institutionalized forms of protest targeting the underlying logics of these efforts.[3] Hence, these various manifestations of hostility, opposition and resistance should not be ignored, especially since they might directly impact the specific nature of established state identification schemes and the self-assigned objectives of implemented public policies.[4]

By the end of the 1960s, the French Ministry of the Interior started to computerize most of its data, a massive process that strongly contributed to focusing public attention on police carding-related controversies. The personal data-protection laws that were subsequently passed did little, however, to prevent or slow down the proliferation of security-related

databases, so much so that many different players today worry about this trend and feel compelled to denounce the dangers thereof, as exemplified in the case of the STIC database.[5]

In addition, over the last fifteen years or so, biometrics has become incontrovertible as a new, apparently more reliable identification technology. Not only is biometrics increasingly popular with public, semi-public or private organizations, which rely on it to control or regulate access to their facilities, it is also more and more present in identity and travel documents (passports, visas, etc.), allegedly making them more 'secure', and increasingly feeds various databases storing either DNA profiles (FNAEG)[6] or fingerprints (FAED).[7] In France, these initiatives have sparked a movement of resistance, which has enjoyed significant growth for several years and now comprises a whole host of associations, unions, internet activists, etc., often forming various collectives and joint committees.[8] This anti-biometry movement is basically structured around criticism and protest actions targeting three major trends: the INES project, the deployment of biometric devices in schools and DNA sampling.

Challenging the policing-driven computerization of citizen data

A short history of the politicization of a controversy

In the early 1970s what came to be known in France as the SAFARI scandal broke.[9] A March 1974 article published by journalist Philippe Boucher in *Le Monde* newspaper[10] claimed that INSEE[11] had decided to start computerizing its identity directory, which includes a personal national identification number for each French citizen.[12] This initiative was driven by one major objective pursued by this institution: to help systematize the use of this unique identifier by all public agencies, so as to build a network of all the data contained in their various databases. This news article also gave details on how the Ministry of Interior had just procured an extremely powerful computer (the Iris-80) in order to facilitate the matching of all data stored in almost 400 manual filing systems maintained by police forces.

These 'disclosures', which were largely propagated and commented upon in the media, prompted the first nationwide debate on the privacy and civil liberties issues raised by massive state-led data-collection operations made possible by the tremendous promises of information technology. However, another reason why the information disclosed by *Le Monde* raised such an outcry was, as pointed out by Guy Braibant, the initial attitude of the incumbent government, whose response seemed

to be to keep everything under wraps rather than fostering democratic debate on such a sensitive issue:

> The Prime Minister had ruled out any effort at a public debate on the computerization designs of the government, contrary to recommendations from both the *Conseil d'État* (unpublished 1971 report) and the Ministry of Justice, but also contrary to what had been done in neighbouring countries.[13]

SAFARI does not just appear as an 'inaugural moment', but rather as a case that contributed to 'showcasing issues that had actually been debated since 1968/69'.[14] Still, its influence on political decision-making can hardly be dismissed: as early as 1974, the Ministry of Justice (upon request from the Prime Minister) appointed a commission whose purpose was to formulate recommendations for the government to reconcile the necessities of information technology development and the imperatives of privacy and civil liberties protection. The findings of the commission were published in the fall of 1975 and served as a foundation to a bill that was discussed by Parliament in October 1977, ultimately resulting in the 6 January 1978 Act establishing the Commission Nationale de l'Informatique et des Libertés (CNIL, for National Commission on Information Technology and Liberty), that is, the French data privacy authority.[15]

This Act was a groundbreaking development in data protection, mostly aiming to enforce two major rules: 'people in charge of processing personal data have obligations, and people whose data is being processed have rights'.[16] There is another reason why this was a major turning point: for the first time ever, an independent administrative authority (the CNIL) would be allowed to control and monitor whatever personal data was collected, recorded and exploited by the police. In fact, as early as late 1979, the commission was mandated by the Ministry of Interior to examine a new project: a computerized national ID card. The CNIL actively fuelled the debates on the risks attached to such an initiative, which, on the eve of the 1981 presidential election, became a major and extremely partisan issue. The right-wing RPR (Rassemblement pour la République) considered the computerization of this ID an absolute priority in order to boost the efficiency of the struggle against fraud and insecurity, illegal immigration and terrorism in particular, while the Socialist party viewed it as an unacceptable reinforcement of social control.[17] Its leader, François Mitterrand, no sooner had become the president of the Republic than he officially

announced the shelving of the project in the name of the defence of civil liberties.

STIC as the main target of current criticism regarding the dangers of a generalized, policing-driven file-keeping on the population

Ever since 1978, the CNIL has gradually been refining its 'doctrine' regarding public safety-related databases containing personal data, with a particular emphasis on two major principles: purpose and proportionality.[18] Still, in the meantime, as many as about 70 digital data-processing systems have been developed by police and gendarmerie services. This 'filing frenzy' has generated considerable amounts of criticism from actors in the field, from journalists[19] to human rights groups[20] through safety think-tanks,[21] as well as some police officials[22] and members of Parliament.[23] The main bone of contention is the STIC (*Système de Traitement des Infractions Constatées*, the 'Observed infringements processing system'),[24] the largest policing electronic database in France, which epitomizes the many malfunctions and risks generated by what detractors consider a frantic expansion of police data-processing practices: mistakes, unsatisfying clearance procedures, function creep, 'a prosthesis to policing flair',[25] etc.

Indeed, the significant increase in the number of such databases, which now contain data pertaining to extremely diverse populations, is matched by an equally significant expansion of the volume of information stored in each of them. The STIC, for instance, which is fed by information gathered from the charge sheets drafted in the context of legal proceedings, contained, in 1997, 2.5 million records about people who had been indicted at some point, a number that had risen to 4.7 million in 2006, and more than 6 million at the time of writing.[26] Such developments are bound to generate significant problems which, in this particular case, mostly stem from the specific data-collection process: the database is fed by the police themselves, upstream from the charge sheet, with no intervention from judicial authorities, and such a 'system has the drawback of allowing inaccurate, or at least unverified, information to subsist, possibly for a long time, which may prove seriously detrimental to the persons involved, especially in terms of the legal characterization of facts'.[27]

Hence, the error rates pertaining to these data can hardly be considered marginal, as evidenced by a number of checks performed by the CNIL since 2001, which led the institution to demand – in more than 60% of cases – that erroneous or unjustified information be updated or deleted.[28] From a legal point of view, this is highly problematic, especially

as far as the right to anonymity and the presumption of innocence are concerned.[29] Victims of massive STIC errors have actually been further inconvenienced ever since accessing this database has been allowed in the context of administrative character checks. This measure, which was introduced through the 15 November 2001 Act on 'daily security', was subsequently expanded to include inquiries relative to French citizenship applications (18 March 2003 Act on 'domestic security'), as well as administrative checks regarding civil service jobs 'pertaining to the exercising of the state's sovereignty missions' (6 September 2005 decree, which impacted more than 1 million jobs). Because of its new role, the STIC, which was initially designed as a judicial intelligence tool, quickly turned into no less than a job discrimination device. One single 'mention' in this database (however trivial the motive) was sufficient, in most cases, to generate 'unfavourable' recommendations in countless administrative checks, resulting in either the firing of the persons involved, or the rejection of their job application (even though, in many cases, no offence had officially been recorded). Such practices have been known to be particularly detrimental to people working, or applying to work, in airport areas, and private surveillance or security firms.

Finally, considering the poor updating practices surrounding the STIC (prosecution offices are largely responsible for inadequately transmitting the information held by them), it is in many cases impossible for the police to find out whether registering someone in this database has indeed had judicial consequences, or whether proceedings have been dropped, the case dismissed, the defendant acquitted, and so on. What is the point, then, of querying the database? Isn't this practice acting as a substitute to rigorous police investigations, and feeding a logic of suspicion which, as it reinforces police prejudices, is based on little more than a mere policing category – that is, the suspect, the *mis en cause* – whose legal contours are blurry at best? This idea was championed in particular by police commander Philippe Pichon who, openly displaying his determination to ply his trade while faithfully 'serving the Republic and its citizens', voluntarily chose to blow the whistle on the illegality of it all, as well as on the many 'dubious' practices[30] surrounding its consultation by the police themselves, by publicizing some STIC records pertaining to show-business personalities.[31]

Rebelling against biometrics

'Say no to INES!'

The INES[32] project (relative to a national biometric identity card) was openly referred to by the Ministry of Interior as early as 2003, and

debated online from February 2005 onwards, via a semi-governmental outlet called FDI (Internet Forum on Rights), as requested by then Minister of Interior Dominique de Villepin. Based on the conclusions of FDI's final report (published on 17 June 2005),[33] which indeed reported significant resistance to INES, the new Minister of Interior, Nicolas Sarkozy, decided on 20 June 2005 to suspend its implementation and defer the parliamentary debate on the subject. What mainly thwarted INES was the resolutely activist stance of the *Collectif pour le retrait du projet INES* (Collective for the withdrawal of the INES project), which brought together five 'community and union organizations working, together or separately, towards respect for human rights, individual and civil liberties, democracy and the Rule of Law'.[34]

In an effort to raise awareness on the dangers of INES, this collective launched a website featuring information about high-tech individual identification projects, both in France and in Europe.[35] Following a press conference given in May 2005 at the LDH (Ligue des Droits de L'Homme, a French human rights watch NGO) headquarters, the collective also petitioned against the project. Their petition, called *Inepte, Nocif, Effrayant, Scélérat* (Inept, Noxious, Frightening, Treacherous) gathered more than 6,000 individual signatures and 69 organization or collective signatures in a year. Some members of this collective further publicized the reasons for their hostility during hearings with the authorities (Parliament, CNIL).

The collective justified its opposition to the INES project by observing that the online debate orchestrated by the FDI was at best a red herring – a democratic lure intended to legitimate biometric carding policies that had in fact already been defined by the government. It also stigmatized the weakness of the arguments put forward by the authorities to justify the implementation of ever more constraining biometric identification procedures: cost of identity fraud, requirements of the fight against terrorism, etc.[36]

However, the most stigmatized aspect of the government's action was its attack on liberties. Indeed, recriminations expressed by the collective hinged mainly on the idea of a colonization of the individual's life experience (to quote from Jürgen Habermas) by authorities who, often invoking deliberately fantasized threats (crime, immigration, terror, etc.), develop ever more intrusive modes of intervention to increase 'filing', thus tightening the social control network. Besides, this excessive policing (*flicage*, as the French familiarly refer to it) of everyday life (which is perceived as deeply upsetting both for individual liberties and privacy) is considered as all the more frightening given today's available technology, the specificity of the identifiers

that can now be mobilized (and which, more than ever before, tend to freeze everybody's identity) and the increasingly international dimension of biometric identification schemes (Prüm Treaty, VIS and SIS II).[37] While these fears certainly have a lot to do with the establishment of centralized, potentially interconnected biometric mega-databases by the authorities at national and supra-national level, they are also – in fact, mostly – induced by another issue: the advent of a logic of traceability and profiling of individuals that may significantly increase the arbitrary prerogatives of control enjoyed by law enforcement authorities, while at the same time radically challenging the concept of an anonymous public space, not to mention certain rights considered as fundamental – such as the right to anonymity or the presumption of innocence. Thus, what is ultimately being condemned here is the implementation of a surveillance society pure and simple; a type of society in which everybody's slightest move is being spied upon and which, because it allows the state to considerably tighten its grip on the population as a whole, makes democracies dangerously akin to the worst totalitarian regimes.

Opposition to biometric applications in schools

Biometrics first appeared in French public (i.e. 'state') schools in 2003. It subsequently spread quite widely, with the number of schools currently using such technologies to control student access to the school itself and other facilities, such as canteens, being estimated at 400. It was mostly the members of the collective against biometrics who initially blew the whistle on the dangers of this deployment. Indeed, on 17 November 2005, in Gif-sur-Yvette (Essonne, in the Paris-Île de France region), about twenty of them intervened in a high school to raise awareness about the installation of two biometric access control devices. After improvising a sketch on the topic of 'concentration camps and technologies of control', they proceeded to destroy the biometric systems that had been installed in the institution, and finally distributed brochures explaining their action. Three of them were arrested during this operation. On 17 February 2006, the *tribunal correctionnel d'Évry* (the local criminal court) gave these students in philosophy and ethnology at the Sorbonne, who were then aged 22 to 26, a three-months suspended prison sentence and ordered them to pay a €500 fine, plus €9,000 in damages. From the point of view of the collective, this judgment provided an opportunity to bring the issues of biometrics at school to the fore, both among the community of the students' parents and the *Éducation Nationale* staff. It also sparked an important

mobilization for their cause: several high-profile 'personalities', such as the philosopher Giorgio Agamben, resolutely backed these anti-biometrics activists in their struggle.[38]

Despite their undeniable anti-security dimension, the arguments put forward by the members of this collective are in fact much more typical of an anti-industrial movement inspired by nineteenth-century Luddism in Britain. Biometric devices are first and foremost seen as 'machines' – 'cold monsters' is a recurrent set phrase – spreading everywhere, whose propagation must be stopped by 'breaking' them, as the advent of the 'machine-world' is bringing about a disastrous robotization of social relationships: machines are turning individuals into mere products, allowing 'herd-like' disciplining as well as the implementation of unacceptable sorting practices. In Grenoble, two other groups of activists (*Pièces et Main d'Œuvre*, literally *Parts and labour*, and *Oblomoff*) are also in line with this perspective, exposing the dangers of seemingly omnipotent technologies – the negative effects of nanotechnologies in particular.

In the wake of the destruction perpetrated by the collective against biometrics, other opponents relayed this cause, emphasizing how the massive introduction of biometrics might deeply alter the role assigned to the schooling system. While the 'Republican school' is supposed to be the locus of personal development, where pupils are introduced to creativity, critical thinking and community values (or 'citizenship values', as the French call them: *valeurs citoyennes*), biometric devices establish more pernicious rationales: those of 'conditioning', control and punishment. Such is, in particular, the gist of the message that another, local collective (*Non à l'éducation biométrique dans l'Hérault*) has intensely sought to spread among the public and elected officials, which earned its members the 2009 Voltaire Prize, granted by Big Brother Awards France. In this perspective, biometrics is also denounced as allowing automated student management – biometric systems result in redundancies for certain key job positions (janitors and classroom assistants, for instance). Ultimately, this phenomenon is seen as gradually generating a dehumanized school system, coldly managed by devices that exclude any emotional relationship, deprive children of their family name and can only generate automated measures of a restrictive and repressive nature.

At the end of the day, owing to these protests, awareness of the issues raised by the introduction of biometrics in the school system was raised among several local government institutions, which decided to stop funding the deployment of such devices.[39] Still, the market seems

too juicy a morsel not too attract biometric 'solutions' producers … As regretfully stated recently by CNIL president Alex Türk:

> I have noticed, over the last three years, an excessive and shocking increase of the pressure applied by some biometric device manufacturers on headmasters, verging on the illegal sometimes. Sales representatives do not hesitate to pitch their products as 'approved' or even 'certified' by the CNIL. Which is obviously not the case at all.[40]

Refusing DNA sampling

Obviously, many of the aforementioned opponents to biometrics also strongly reject DNA sampling, an issue that allows them to highlight the potential eugenistic drifts of genetic filing and, more specifically, to develop a critique hinging on the topic of the breach of the body's intimacy. Indeed, this sampling, generally performed by introducing a cotton swab in the mouth of individuals, is described as particularly detrimental to the right of intangibility of the human body. In addition, it is presented as a capture, a seizure, an appropriation, or a violation of the deepest nature, performed on individuals who are thereby entirely deprived of their singularity: their biological reality alone is taken into account, regardless of what they might think, say or do.

Hostility to DNA filing in France, however, is by no means restricted to such a theoretical denunciation.[41] From about 2000 onwards, a movement started to take shape, which advocated a practical mode of opposition: refusing to yield to genetic sampling procedures. This movement grew as a consequence of various initiatives taken by players from diverse backgrounds: union leaders recommending voluntary destruction of GM crops or defending the unemployed, inmates, etc. It then gradually became institutionalized, especially with the establishment, in October 2006, of the collective *Refus ADN* – which plays an important role via its website.[42]

By shedding light on tangible cases of police DNA sampling being refused by certain individuals throughout France, the website feeds a discourse that mainly focuses on depicting a government that is using its more and more systematic genotyping policy as a pressure tool against so-called 'deviant' populations: night-time gardeners, underprivileged youths, anti-advertising activists and union leaders. Such a policy is perceived as a prelude to an all-encompassing DNA filing of the population. However, beyond sharing protest and useful information with those who refuse DNA sampling, the website of the *Refus ADN* collective also acts as a practical mobilization tool: petitions, poster

diffusion and, most importantly, calls to gather in front of courthouses where individuals are being sued for refusing to yield to DNA sampling, in order to put some pressure on the judicial system.

These mobilizations have one major objective: that of making the government's genotyping policy ineffective by bringing about mass refusals: 'A 10% refusal rate (2,000 people per month) would be enough to saturate the courts.'[43] As highlighted by Sylvaine Tuncer, the idea, more precisely, is to disrupt a scheme by attacking its faults:

> Blocking the police station by provoking an unforeseen situation for which no *ad hoc* procedure exists, increasing the workload of officers by multiplying procedures, provoking an unusual gathering at the courthouse, and finally widening the scope of the individual case to turn the trial itself into a political critique.[44]

While this strategy did not quite manage to freeze the target system altogether, it certainly has had nontrivial repercussions. First of all, it did publicize a cause that was eventually widely discussed in the national media and supported by some members of Parliament. It also contributed to increase the individual instances of DNA sampling refusal. Finally, the arguments developed by DNA filing opponents convinced many a magistrate, who have discharged quite a few defendants, often on the ground that the court considered itself unable to appreciate whether the decision to sample their DNA was justified or not, or because FNAEG registration of individuals who were merely 'suspected', and not 'convicted', of a crime seemed excessive.

Conclusion

This quick overview of the opponents to biometrics in France enables us to highlight several points of convergence in the modes of resistance that have been mobilized. First of all, the discussion hinges mostly on the attack on liberties, privacy and personal data introduced by ever more intrusive, wide-ranging, and systematic state database-building practices – although some players do try to frame the issue in terms of more specific topics such as defending the education system, fighting political repression of dissenting social movements or the threats introduced by the supremacy of technology in our modern societies. We have then seen that the role of the internet is a particularly decisive one in shaping the refusal front. The web makes it possible to massively distribute ready-to-use briefings against biometric identification devices

and to link, in a very short time, a multitude of players regrouped in national or local 'committees' and 'collectives'. Finally, the courtroom has become an important resource in mobilization strategies. Appeals and lawsuits flourish, with various jurisdictions, to challenge the lawfulness of biometric devices, while trials provide the opponents, eager to publicize their cause, with opportunities to turn courtrooms into political arenas.

However, this apparent consistency actually covers important divides among biometrics protesters. While some opponents (such as the *Brigade Activiste des Clowns*, or *Big Brother Awards France*) rely on humour to stigmatize the dangers of the advent of a surveillance society, others view this niche as particularly counterproductive. The *Pièces et Main d'Œuvre* collective, for instance, considers that the ceremony organized annually by *Big Brother Awards France* 'has the drawback of trivializing the totalitarian ogre, which is ridiculed as a comedy bogeyman whose constant and multiple grindings become just as many jokes'.[45] These and other activists (*Oblomoff* members, for instance), would rather resort to more radical modes of protest, such as their February 2006 disruption of the exhibition entitled *Biometrics: The Body as Identity*, at the *Cité des Sciences et de l'Industrie* in Paris – La Villette. Similarly, whereas some activists do not rule out dialogue with the CNIL and consider their actions as a means to help improve the enforcement of the 1978 *Informatique et liberté* Act on freedom and data protection, a more hard-line circle refuses to concede to this institution, which to them is a mere group of experts busily elaborating a code of ethics for robots, and whose independence is totally illusory. Worse still, in their view, the current all-out development of biometric devices in France is proof of the deep collusion that exists between this commission, the state (characterized by an increasing propensity to filing) and high-tech industrials (who fully benefit from the economic opportunities created by the new security markets opened by the liberty-quashing, free-market options chosen by politicians). This explains why some activists decided, on 14 December 2007, to stage a sit-in on the CNIL's premises in order to symbolically pronounce the disbandment of this institution.[46]

Notes

1. V. Denis (2008) *Une histoire de l'identité. France, 1715–1815* (Seyssel: Champ Vallon); É. Heilmann (1991) 'Des Herbiers aux fichiers informatiques: l'évolution du traitement de l'information dans la police', Information and Communication Science doctoral thesis, Université de Strasbourg II.

2. According to Pierre Bourdieu, government-allocated IDs should fall under the 'official acts of nomination' (*Actes officiels de nomination*) category, thus constituting one of the most conspicuous instances of state monopoly on symbolic violence. To Bourdieu, IDs are tools used by governments to force their own outlook on the people. Their use of such tools 'puts and end to argument about the way of naming by assigning an identity […] which, under the appearance of simply saying what is, tends additionally and tacitly to say what ought to be': P. Bourdieu (1997, trans. 2000) *Pascalian Meditations*, trans. R. Nice (Stanford, CA: Stanford University Press), p. 187.
3. For a specific analysis of several instances of 'individual refusal' in history, see in particular 'Impostures' (2006), *Politix*, 19:74. For several recent examples in the Anglo-Saxon world, see 'Surveillance and Resistance' (2009), *Surveillance & Society*, 6:3.
4. On the very first identity card instituted for French nationals, see P. Piazza (2004) 'Septembre 1921: la première "carte d'identité de Français" et ses enjeux', *Genèses*, 54, pp. 76–89.
5. É. Heilmann (2005) 'Le désordre assisté par ordinateur. L'informatisation des fichiers de police en France (1968–1988)', *Les Cahiers de la sécurité*, 56, pp. 145–66; I. About and V. Denis (2010) *Histoire de l'identification des personnes* (Paris: La Découverte), pp. 98–9.
6. FNAEG (National automated genetic repository). Initially, the 17 June 1998 Act merely intended this database to be used in identifying sex offenders. Then, on 15 November 2001, another piece of legislation regulating daily security extended its scope to the 'most serious damage done to people and goods' (*Atteintes aux personnes et aux biens les plus graves*). Subsequently, the domestic security act passed on 18 March 2003 decreed that virtually any offence might justify DNA sampling and that such sampling should be allowed on individuals who could be reasonably suspected of having committed any offence or crime. As of 2002, 2,635 individuals were registered in this database, a figure that has soared to more that 1.7 million at the time of writing.
7. FAED (National automated fingerprint repository). The creation of this database was decreed on 8 April 1987. In 1994, it became the first ever fully operational national biometric repository, accessible to both the police and the *gendarmerie*. Recorded and stored in it are, in particular, the fingerprints of any individual involved in a criminal procedure. The FAED's growth never stopped: 1.8 million individuals were filed in 2004, and almost 3.5 million at the time of writing.
8. Oblomoff; IRIS (Imaginons un Réseau Solidaire: http://www.iris.sgdg.org/); PMO (Pièces et Main d'Œuvre: http://www.piecesetmaindoeuvre.com/); Halte aux puces! (http://www.millebabords.org/spip.php?article8694); Souriez, vous êtes filmés! (http://souriez.info/); Brigades Activiste des Clowns (http://www.brigadeclowns.org/index.php?title=Accueil); Coordination contre la biométrie; Collectif George Orwell (http://1984.over-blog.com/); Collectif Refus ADN (http://refusadn.free.fr/spip.php?rubrique8); Collectif pour la défense des libertés fondamentales; Big Brother Award France (http://bigbrotherawards.eu.org/); MACI (Mouvement pour l'abolition de la carte d'identité); SM (Syndicat de la magistrature: http://www.syndicat-magistrature.org/); Panoptique (http://panoptique.boum.org/); LDH (Ligue des Droits de l'Homme: http://www.ldh-france.org/), etc.

9. *Système Automatisé pour les Fichiers Administratifs et le Répertoire des Individus* (Automated system for administrative files and the repertory of individuals).
10. '"Safari" ou la chasse aux Français' (21 March 1974), *Le Monde*, p. 9.
11. *Institut National de la Statistique et des Études Économiques* (National Institute of Statistics and Economic Studies).
12. On the Vichy origins of this directory and number, see in particular B. Touchelay (1993) 'L'INSEE des origines à 1961: évolution et relation avec la réalité économique, politique et sociale', doctoral thesis in History, Université de Paris-XII-Val-de-Marne; P. Piazza (2004) *Histoire de la carte nationale d'identité* (Paris: Odile Jacob), pp. 202–5.
13. G. Braibant (1998) *Données personnelles et société de l'information: rapport au Premier ministre sur la transposition en droit français de la directive numéro 95–46* (Paris: La Documentation française), p. 14.
14. D. Linhardt (2005) 'La question informationnelle. Éléments pour une sociologie politique des fichiers de police et de population en Allemagne et en France (années 1970 et 1980)', *Déviance et société*, 29:3, p. 264.
15. On the major claims made in this report by *conseiller d'État* Bernard Tricot and Law professor Pierre Catala, see in particular A. Vitalis (1976) 'Informatique et libertés', *Bulletin de liaison de l'IREM de Nantes*, 5.
16. F. Fourets (2005) 'La protection des données ou le symbole d'une démocratie nouvelle. Le contrôle de la CNIL', *Informations sociales*, 126:6, p. 97.
17. See P. Piazza (2007) 'Logiques et enjeux de la mise en carte policière des nationaux', *Journal des anthropologues*, Hors série, p. 118.
18. Personal data should be collected for a determined, explicit and legitimate purpose, and subsequent use of it should not collide with this purpose. Moreover, the data should be adequate, relevant and not excessive with regard to the purpose guiding its collection and subsequent processing.
19. See in particular the many papers blogged by J.-M. Manach, http://bugbrother.blog.lemonde.fr/.
20. See in particular the 'Fichiers' section of the *Ligue des Droits de l'Homme* website, http://www.ldh-france.org/-Fichiers-.
21. See, for instance, the 'Fichiers' section on the website of *Droit Justice Sécurités*, a judicial think-tank that brings together some 50 legal and public safety professionals: http://www.droits-justice-et-securites.fr/tag/fichiers/.
22. See the two reports on policing databases written by the workgroup constituted by 'criminologist' Alain Bauer upon request from the Ministry of Interior and which includes high police and gendarmerie officials: A. Bauer (2006) *Fichiers de police et de gendarmerie. Comment améliorer leur contrôle et leur gestion?* (Paris: La Documentation française); A. Bauer (2008) *Mieux contrôler la mise en œuvre des dispositifs pour mieux protéger les libertés* (Paris: La Documentation française).
23. See the information report drafted by members of Parliament Delphine Batho and Jacques Alain Bénisti, 'Rapport d'information n° 1548 sur les fichiers de police', 24 mars 2009.
24. The STIC was officially established through a decree, on 5 July 2001, after several years of operating outside any legal framework.
25. The phrase was coined by Virginie Gaudron and Frédéric Ocqueteau in their paper 'Il faut soutenir le policier Pichon, courageux lanceur d'alerte', *Libertés surveillées*, Les blogs du Monde,http://libertes.blog.lemonde.fr/.

26. In addition to this, information about 28 million individuals is stored in the STIC.
27. M. Kornman (2004) *Les fichiers de police: au cœur de la dérive sécuritaire*, Mémoire de DEA de Droit pénal et politique criminelle en Europe, Faculté de Droit (Paris: Université Paris 1 Panthéon-Sorbonne), p. 99. STIC data may be kept on record for as long as 20 to 40 years.
28. In a 20 January 2009 report to the Prime Minister, the CNIL noted that checks performed by its agents had shown that only 17% of STIC files on indicted people were accurate: http://www.cnil.fr/fileadmin/documents/approfondir/dossier/Controles_Sanctions/Conclusions%20des%20controles%20STIC%20CNIL%202009.pdf.
29. On these questions, see W. Baffard (2003) *Le Système de Traitement des Infractions Constatées (STIC) et la protection des données personnelles*, Mémoire de DEA 'Informatique et Droit', Faculté de Droit (Montpellier: Université de Montpellier 1), p. 57.
30. Especially the practice commonly known among the police themselves as *tricoche*, meaning to illegally sell STIC data.
31. See F. Ocqueteau and P. Pichon (2010) *Une mémoire policière sale. Fichier STIC* (Paris: Jean-Claude Gawsewitch éditeur). Philippe Pichon was compulsorily retired by the Ministry of Interior, but challenged this disciplinary measure and initiated several legal proceedings, some of which are still pending.
32. For 'Identité Nationale Electronique Sécurisée'.
33. The Internet Rights Forum is a quasi-governmental organisation set up in December 2000 by the Prime Minister to organise discussions on the legal and social issues arising from the internet and new technologies.
34. LDH, SM, IRIS, SAF (French Lawyers' Union), and AFDJ (Association française des juristes démocrates).
35. http://www.ines.sgdg.org/.
36. For further details on these aspects, see C. Lacouette-Fougère (2008) *La métamorphose d'INES. Trajectoire d'un programme public innovant: la carte nationale d'identité électronique*, Mémoire de l'IEP de Paris (Paris: IEP).
37. The Treaty of Prüm enables EU Member States to exchange fingerprints and DNA profile data. The VIS (Visa Information System) was created by the EU to collect the fingerprints of foreigners entering Europe. SIS II – version 2 of the Schengen Information System – will store biometric data. See in particular D. Broeders (2007) 'The New Digital Borders of Europe: EU Databases and the Surveillance of Irregular Migrants', *International Sociology*, 22:1, pp. 71–92.
38. G. Agamben (5 December 2005) 'Non à la biométrie', *Le Monde*.
39. On this topic, see Laurent Gilli (a member of action group 'Dépassons les bornes'), *Biométrie, biomépris … Quand l'école a les mains sales*, http://pythacli.chez-alice.fr/recent30/quand_lecole_a_les_mains_sales.pdf.
40. A. Türk (2011) *La vie privée en péril. Des citoyens sous contrôle* (Paris: Odile Jacob), p. 42.
41. On the nature of controversies stemming from the development of DNA identification of individuals in the Anglo-Saxon world, see S. Cole (2010) 'La saisie de l'ADN aux États-Unis et au Royaume-Uni à des fins d'identification des individus: origines et enjeux' in A. Ceyhan and P. Piazza (eds) *L'identification biométrique. Champs, acteurs, enjeux et controverses* (Paris: Éditions de la MSH), pp. 63–78.

42. See http://refusadn.free.fr/.
43. 'Compilation d'informations et de soutien contre le fichage AND', a brochure by Collectif Refus ADN.
44. S. Tuncer (2009) 'Le refus de prélèvement d'ADN. Scène d'un travail politique de dénonciation de l'ordre sécuritaire', master's dissertation in Sociology, EHESS, Paris, p. 33.
45. Pièces et Main d'Œuvre (2008) *Terreur et obsession. Enquête sur la police des populations à l'ère technologique* (Paris: L'Échappée), p. 117.
46. *Oblomoff*, *PMO*, *MACI*, *Haltes aux puces!*, etc.

16

'Establishing Your True Identity': Immigration Detention and Contemporary Identification Debates

Melanie Griffiths

Introduction

The verification of identity has been bound up in state attempts to control people's mobility for many centuries,[1] but took on additional significance in the twentieth century, as a result of the World Wars, development of the European Union and relaxing of some internal European borders under the Schengen Agreement.[2] By the beginning of the twenty-first century, identification demands in the UK and elsewhere had gone beyond specific arenas, such as international travel, to have pertinence throughout society. Amassing information about identifiers and creating reliable means of proving identity are now as much about banal commercialism as super-securitization, and are of concern to the private sector as much as public bodies.

Despite the incorporation of citizens into identification requirements, however, the emphasis of identification remains fixed on the 'usual suspects' of criminals, foreigners, ethnic minorities and terrorist suspects.[3] Among such groups, it is particularly difficult – sometimes impossible – for the authorities to establish the 'true' identities of certain non-citizens, particularly those who entered the country surreptitiously, are presumed to lie, and who are not only absent from British identity systems but may have never been incorporated into such systems in their countries of origin. My premise is that as identification practices continue to infiltrate mainstream Euro-American society, people with uncertain identity will be considered increasingly problematic and simultaneously vulnerable to and dangerous to the state.

This chapter examines how a specific group of non-citizens – failed asylum seekers in British immigration detention – negotiated and

challenged official identification requirements in the first decade of the 2000s. The chapter explores the basis for the British immigration authorities' interest in identifying asylum seekers, and the techniques they use to contest and (re)establish their identities. It concludes by considering the implications for people with discredited identities, and in so doing, complicates notions of identity 'truths' and 'lies', and provides insights into underlying models of identity being employed. The chapter proposes that establishing the 'truth' about an asylum seeker's identity has taken on such importance that questions of identity have become conflated with those of persecution. This allows uncertain identity to become the justification for refusing refugee protection and indefinitely incarcerating individuals.

Setting the scene

The term 'identity' is employed frequently in British immigration policy but is problematic and has multiple meanings. It can represent sameness or difference, be political or private, group or personal, innate or achieved, voluntary or imposed.[4] Indeed, some have suggested that 'identity' is so nebulous and indefinable that it can be used in entirely contradictory ways and obfuscates dialogue.[5] Although I recognize that 'identity' is a problematic, catch-all term, it is used so frequently in political and public discourses as to be a 'socially necessary convention',[6] and worthy of further analysis. I distinguish between *identity* (whether self-selected or imposed, personal or collective) and *identification*, noting a difference between full identification (establishing who the person is, potentially from scratch) and verification/authentication (checking the individual is who they claim to be).[7] Further, where relevant I try to specify the particular identifiers (such as name, religion, occupation) in question rather than subsume them under the term 'identity', as is frequently done.

The chapter draws on qualitative anthropological research I conducted in 2008–10 among individuals going through the asylum system in Oxfordshire, England. These people had requested protection in the UK as refugees and were waiting for a decision from civil servants, appealing a negative decision in the courts or had exhausted their appeal options and were facing removal from the UK. The international 1951 Convention Relating to the Status of Refugees specifies that to be recognized as a refugee, one must have crossed into another country and be facing persecution *as an individual* on certain specific grounds. The criteria are strict, and persecution on other grounds, including

indiscriminate warfare, is not covered. In the UK, initial asylum decisions are made by civil servants at the UK Border Agency (UKBA), with any appeals decided by judges at the Asylum and Immigration Tribunal. For this reason, when I speak of 'the authorities', I refer to both government representatives and immigration judges.

The individuals discussed in this chapter were primarily incarcerated in an Immigration Removal Centre (IRC), although reference is occasionally made to failed asylum seekers living 'freely' in Oxford. The IRC in question is Campsfield House, which holds up to 216 adult men at any time. It was one of eleven such centres in the UK at the time of my research. Like the other IRCs, Campsfield resembles a prison. People are incarcerated against their will, behind razor wire and patrolling guard dogs. However, there are significant differences between immigration detention and prisons. While prisons are punitive and overseen by the judiciary, immigration detention is an administrative technique managed by civil servants. Like most of the other IRCs, Campsfield was run by a private company.

The purpose of immigration detention is to buy the authorities time in which to establish someone's identity and/or to facilitate their removal from the UK. Both processes can be extremely complicated or ultimately impossible, and often result in long periods of detention for those people whose identities are deemed particularly problematic. Although several EU countries detain irregular migrants in special centres, the UK is one of the few countries in the world that allows indefinite detention.[8] Although the average length of detention at Campsfield during my research was around six weeks, some people stayed just a few days while others were detained for several years. Unlike prisoners, detainees do not know in advance how long they might be held. This makes IRC an ambiguous space – one that is transitory, but not always short-term.

My access to detainees at Campsfield was as a doctoral researcher, NGO volunteer and the asylum caseworker of the MP whose constituency covered the centre. Through these various routes, I spoke to detainees from over 30 countries, with particularly high numbers of Nigerians, Iraqis, Afghans and Iranians. Most were aged around 18 to 30. In many ways, a shared geography and experience of having claimed asylum was all that connected what was otherwise a diverse group of people. I also formally interviewed three volunteer visitors, three NGO employees, an independent monitor to Campsfield, a UKBA caseworker who wished to remain anonymous, and the on-site managers of both the private company running Campsfield and the UKBA staff. There are many ethical concerns working with incarcerated people, who in my experience

were almost always depressed and desperate. In line with established guidelines, I tried to anticipate any harm my research could cause, honoured my informants' trust and privacy, avoided undue intrusion, and ensured confidentiality and anonymity.[9] All names have been changed, and I am omitting some details of interviews and documents in order to ensure the individuals cannot be identified.

Identification and the asylum system

As has been suggested in other chapters, the historic rise and consolidation of nation states has often been entwined with the development of identification techniques. Although identification is associated with various state practices including tax collection and military conscription, there is a particularly strong association with attempts to control mobility and borders, which has involved verifying individual identity, establishing standardized personal identifiers and differentiating people into categories of desirability or eligibility. This close relationship remains evident today, with complex bureaucracies established in relation to borders in order to identify people and oversee their movements.

A desire of states to identify those in their territory might not be new, but since the end of the twentieth century, authentication technologies in the UK and beyond have been performed at a different scale and with specific new characteristics. These include the broadening of populations targeted for identification and a function creep of identification into everyday life, generating what Lyon has described as 'governing by identification'.[10] Criminality and national security are often ideologically associated with identity management, a trend that began in the twentieth century but that was validated by the terrorist attacks of 9/11.[11] Contemporary identification techniques also rely on large, networked and searchable identity databases, which have been developed at both a national and regional level. For example, the European information system EURODAC was developed as part of attempts to harmonize migration control at the EU level. It has been operational since 2003 and holds biometric and gender information on asylum seekers and irregular migrants. By the end of 2010, EURODAC held over 1.7 million fingerprint files.[12] By omitting name, address and other identifiers, EURODAC prioritizes physical identifiers over biographical ones.

My research, on the verification of identity within the contemporary British asylum system, must be seen in the context of the well-established relationship between identification and migration, coupled

with growing contemporary emphasis on identification techniques as a means to 'solve' social ills. The UKBA expresses interest in the identities of asylum seekers in many ways, but primarily in relation to (1) deciding asylum claims, and (2) managing those refused refugee status.

Firstly, under the Refugee Convention, for a claimant to be accepted as a refugee, they must prove an individual threat on the basis of who they are: their religion, membership of a social group, political opinion, race or nationality. A great deal of discussion in deciding asylum claims therefore revolves around whether a claimant's presented identity is 'true'. If decision-makers can *disprove* a professed identity, they might refute the specifics of the asylum claim, as well more broadly portray the individual as untrustworthy. In this way, verifying identity becomes a 'short cut' for the complicated business of establishing a 'well-founded fear of being persecuted'. For example, if someone claims asylum as a former Somali child soldier, it will probably be easier to show that they are not Somali than to tackle the details of their purported past as a child soldier. The risk, however, is that the privileged place of identification allows questions of identity to be conflated with those of protection.

Secondly, identification is crucial to the management of *failed* asylum seekers, including immigration detention and removal from the UK. Indeed, detention is often justified on the basis of uncertain identity – both in order to give the UKBA time to establish 'real' identities and because people with uncertain identities are considered likely to abscond or commit crimes. Uncertain identity also prolongs immigration detention by hindering removal. Individuals cannot be removed without travel documents, but most failed asylum seekers do not have valid passports. In such situations, the UKBA must obtain 'emergency travel documents'. For this to occur, an embassy has to accept the person as their national, a process that is often long and contentious. Those people whose identity cannot be established (or at least cannot be verified by the relevant embassy) are effectively undeportable, resulting in very long detention or – occasionally – eventually being recognized as stateless.

In addition to return to one's country of origin, immigration detainees might face removal to another European country, under EC Regulation 2003/343/CE (colloquially known as the 'Dublin Convention'). Coming into force in 2003, the Convention seeks to prevent people from claiming asylum repeatedly in different EU countries. It stipulates that the first EU member state that the person travels through is the one expected to handle the asylum claim. Under these rules, asylum seekers are returned to the first European member state that they enter. The

evidence for their presence is usually in the form of fingerprints, which are collected by member states and shared via EURODAC.

Finally, lying about identity or having false proof of identity is increasingly being criminalized, with individuals caught with fake identity documents serving prison sentences and subsequently being deported under the 2007 UK Borders Act. About a third of the detainees at Campsfield had criminal records, and for the majority whom I spoke to, this was for identity or immigration offences such as entering the UK without a passport, destroying their proof of identity or using false identity documents.

Uncertain identity: Documents

Having proposed that the certainty of identity is pivotal to asylum decision-making and the management of those with failed claims, the chapter now considers how and why people's identities were disputed. It often appeared as though the authorities assume that asylum seekers (especially those refused refugee status) present false identities. Of course, a mistrust of verbally purported identities is not new.[13] For centuries, documents have been used to fix identities and limit illegitimate appropriation of other people's identities. In theory at least, when establishing asylum seekers' identities, the UKBA placed greater weight on identity documents than verbal assertions. However, for a variety of reasons neither the UKBA nor my informants could always rely on such documents for identity authentication.

Firstly, some detainees had have never owned identity documents. This included former street children, adoptees and those from refugee camps or countries that lacked the means to document all their citizens. Secondly, people often no longer possessed their identity documents. They might have been unable to bring them when they fled their country of origin, or lost them travelling to the UK or during the years of waiting in the asylum system. Passports may have been confiscated by smugglers, or taken – and sometimes lost – by state authorities. Some people destroyed their own documents, something that is now a criminal act but that can be understood as an attempt to avoid administration systems,[14] or shed rights-limiting passports.[15] Destroying one's own documents certainly could hinder one's removal, illustrated by a UKBA letter about a detainee:

> Unfortunately Mr [surname] does not have his Iranian identity card and the Iranian Embassy will not issue a travel document without an identity card. (UKBA letter to MP, 2009)

Thirdly, and related to the *destruction* of documents, was their unauthorized creation, doctoring or ownership. 'False identity' refers to the invention of a fictitious identity, or the illegitimate alteration of an existing one.[16] Historically, passports have been rather easy to falsify because their authenticity was derived by reference to other documents. Some detainees had bought documents that were created from scratch in their own identity, while others had ones that were genuine and undoctored, but that belonged to someone else, or that had belonged to someone else but had been modified to resemble the identity of the new bearer. My informants had used such documents to leave their country, enter the UK, work illegally and sometimes make asylum claims. Although associated with criminality and fraud, the use of false documents could also be an attempt to participate in mainstream society (particularly employment), or flee persecution.[17]

While recognizing the reality of identity deception, it was simultaneously the case that the British authorities were zealous in claiming that identity documents were fake. Indeed, some immigration judges had a reputation for automatically dismissing documents from certain countries. This reflects a 'hierarchical citizenship',[18] in which different-coloured passports have unequal political value. The presumption of falsity produced an impossible situation in which the absence of documents was used against the claimant, and yet their presence met with suspicion. This is illustrated by someone I interviewed, whose detained friend had:

> Managed to get his identity card from Afghanistan because they wanted evidence for his age. And they said 'well, we can't accept this because it's probably a counterfeit'! So he said 'well, what can I do? I've got my identity card and they won't count it.' Because it supported his side of things. (Interview with Campsfield visitor, May 2009)

Identification techniques: Discrediting identity

Without (trusted) identity documents, my informants were vulnerable to accusations of using false identities in a way that was much rarer for British citizens, who usually existed from birth on state registries and possessed identity documents with high 'truth value'. This section and the following one consider some of the techniques used by the authorities to try and discover or resolve uncertain identity. To do so, I differentiate between *proving* and *discrediting* identities. Demonstrating that someone is *not* who they say they are is different, and much easier, than proving who they *are*.

In addition to suggesting that an identity document does not belong to a person, the authorities employ a variety of subjective and reductive mechanisms to try and disprove identities. They examine narrative detail, language, accent and knowledge of the purported country of origin, and compare these with the 'objective' evidence about the country or people concerned. Broader questions about credibility are also invoked, based on inconsistencies in interviews or through analysis of 'body language', emotions or demeanour.[19] Trick questions are sometimes used. For example, an NGO employee told me that asylum seekers claiming to be Rwandan were asked where the train station in Kigali was, with any 'true' Rwandan knowing there was no station. Another man said he had visited a detainee accused of lying about his nationality because he had been asked:

> About the main roads in Afghanistan – motorways or whatever. And he didn't know them. I think when he arrived he was 16 years old. And he knew his village, and he knew Kabul and he knew of some other places there. He didn't know the road system! So anyway, they said he was Pakistani. (Interview with Campsfield visitor, May 2009)

Some arguments for dismissing an identity rested on rather subjective and simplistic assumptions. For example, in dismissing the asylum appeal of a man claiming to be Congolese, the immigration judge invoked discredited biological models of race:

> The Appellant claims to be of mixed ethnicity but did not display any of the particular characteristics of the Tutsi race, despite saying in evidence he could look like his father, there was no medical or other professional assessment of his ethnicity. (Immigration Judge's findings, 2009)

The judge also challenged the man's explanation for not speaking Kinyarwandan, using generalized gender assertions:

> His claim that it was not spoken because his mother did not speak it, contradicts the place of women in society. (Immigration Judge's findings, 2009)

Similarly, another detainee, Dalmar, was refused asylum and deemed not credible, in large part because he was accused of lying about his

nationality. Dalmar claimed to come from a Somali island but the UKBA disputed this nationality on the basis that he incorrectly answered one of their questions about Islam, that a Danish immigration report contradicted the livelihood he claimed that his family engaged in, and that an interpreter concluded that he spoke a variety of Swahili not common in Somalia. Further, the UKBA claimed that Dalmar did not correctly state how long it would take to walk the length of the island:

> Your approximation that it would take 'half an hour or so' to cross the width of the island is not accepted as entirely correct. As previously stated, the island is approximately 3/4 of a mile wide at its widest point, however the majority of the island is approximately 1/3 of a mile wide and it is considered that your answer would have reflected this fact. (UKBA letter to detainee, 2009)

Aside from questions about how religious Dalmar was and whether he owned a watch, these arguments provide an illustration of the conflation of identity (in this case primarily nationality) with the issue of whether Dalmar suffered persecution.

Identification techniques: Re-establishing identity

Although the UKBA had effectively disproved Dalmar's nationality and thus his asylum claim, it was much harder for them to assign (or discover his 'real') identity. Although proving one's identity has become routine for British citizens, it usually involves verification or authentication rather than full identification.[20] In other words, making sure that the person is who they claim to be (usually by checking a limited pool of possibilities on a database), rather than establishing their identity from scratch. Full identification is very difficult, potentially impossible for those without key identity documents or who are absent from the relevant databases. Theoretically, in the case of failed asylum seekers whose stated identities are dismissed as lies, the UKBA are attempting full identification. However, since their primary motivation is obtaining travel documents for removal, in reality the UKBA are predominantly interested in *nationality*. The insignificance of other identifiers is highlighted by a UKBA letter to a detainee:

> The Pakistan High Commission … agreed to issue an Emergency Travel Document in the name Khalid Khan. You maintained that your actual name was Mohammed Zafar, not Khalid Khan. Further

> contacts were made with the Pakistan High Commission who confirmed that they would issue a travel document *in either name*. (UKBA letter to detainee, 2009, my emphasis)

To reassign an identity, the British authorities heavily rely upon embassies. The power of embassies to agree or refuse to issue travel documents is significant and can result in lengthy detention for those not recognized by an embassy. Alternatively, an embassy can accept responsibility for someone against the person's will, resulting in their removal to a country they insist is not their own. Aside from embassy interviews, techniques for (re)establishing identity include subjective mechanisms such as anthropologist expert witnesses, and reductionist tools that concentrated on the body.

One such tool is language analysis. A UKBA officer told me that voice recognition tests by a 'specialist in accents and dialogues' could demonstrate what country, region or tribe someone was from. A pilot study of language analysis conducted in the UK in 2007 was heralded as having 'proved' that half of the Somalis tested were actually Kenyan, most of Palestinians were Egyptian and all the Amharic speakers claiming to be Eritrean were Ethiopian.[21] The assumption that language can be equated to nationality is problematic and assumes an essentialized model of nationality. Languages and dialects have permeable borders, they change over generations and people who grow up in several areas often have mixed accents or lose their 'mother tongue'. Language tests also depend heavily upon the expertise of the translator.

The UKBA also attempts to gleam information about nationality from biological data. In 2009, the UKBA ran the 'Human Provenance Pilot Project', in which asylum seekers were subjected to genetic and isotope testing. The project invoked widespread criticism, including from the inventor of DNA fingerprinting. Experts pointed out that nationality is not embodied at the genetic level[22] and that isotope analysis from hair or nail samples can only demonstrate *recent* inhabitation.[23] In addition to being scientifically flawed, these techniques conflate political constructs of nationality with ethnicity and geography.

Pseudo-scientific attempts to use bodies to verify identity are controversial but not new.[24] Today's body-focused identification technologies are called 'biometrics' and include digitized fingerprints, iris or retinal scans, facial topography, voice recognition and gait measurement. These reduce the body to measurable components and transform these into binary digital code so that the data can be abstracted, stored and compared in databases. Although there has been provision for biometric

measurement of foreigners since the 1971 Immigration Act, fingerprinting began in earnest during the early 1990s.[25] After claiming asylum, my informants had taken their fingerprints, photographs and 'any other physical identification information we think is required' along with any identity documents in order to help the UKBA to 'establish your identity and nationality'.[26]

Public and private bodies have portrayed biometrics as an effective means of managing problems of uncertain identity and clarifying identity confusions. For example, in a UKBA building used for claiming asylum, posters announce:

> **We can detect a person's country of origin.** Giving false information *will damage your claim* and *you may be detained*. (Poster at Lunar House, seen 2010, emphases in original)

Such claims are exaggerated at best. In addition to the flaws of technology and human operators, biometrics can only *verify* identity rather than provide full identification,[27] suggesting that they can say little about who a person is unless information about them is already held.

Truth and lies

The emphasis on identification of asylum seekers, coupled with a generalized suspicion of their identity documents and narratives, raise questions regarding the nature of truth in relation to identity. Many NGOs have described a 'culture of disbelief'[28] among UKBA decision-makers and immigration judges, in which asylum seekers and detainees are assumed to be liars. Detainees told me they felt no one believed them or their identity 'evidence', reflecting the earlier point that when identity documents were absent, the claimant was assumed to be a liar, and when documents were presented, they were met with suspicion or rejection. While recognizing that some people do present identifiers that are not officially their own, this section suggests that it is too simplistic to imagine that people have a true and provable identity (and corresponding genuine papers), with any additional identities being false aliases. Rather than a binary construction of 'true' and 'false' identities, a complicated spectrum of realities exists.

Firstly, even when fake identity documents had been used, it was often unclear which identity was the 'real' one, and challenging for the individual to satisfactorily clarify the situation. Frequently there were three or more identities involved. For example, detainee Harry entered

the UK on his South African father's passport and claimed asylum in this identity. Some years later he claimed asylum again, this time as Harry. A third identity arose later when, to prove his links to the UK, he provided an appeal court with love letters from his British partner addressed to another name. Harry was imprisoned for using a fake passport, had his asylum claim refused and was transferred to Campsfield for deportation. Confirming Harry's 'real' identity, however, was complicated by his possession of several passports, the two asylum claims, use of different names and his various claims to be South African or a dual national. Although this last point was used as evidence of his deception by the UKBA, theoretically Harry – who claimed to have never had his own passport and to have been born in one country but raised in another – may not have known his official nationality.

Secondly, false documents and identities often overlapped with 'real' identities. As with Harry, identifiers or identity documents might be 'borrowed' from family members, rather than stolen or produced from scratch. False documents also could be doctored to resemble the identity of the new bearer. Some of my informants had used passports with forged bio-data pages or inserted photographs, and others said they had paid extra for identity documents to be in their 'real' identity. For example, North African Yusef told me that before he claimed asylum he had been 'forced' to work illegally. Finding it hard to do so without any papers, he paid for a fake French passport, ensuring that it had his 'real' name and date of birth, in order to be as legal as possible. It was as though Yusef – and others like him – were trying to access a socially pervasive system that he was excluded from, by illegitimately co-opting the associated symbols and tools.

Furthermore, although the British authorities imagine identities to consist of certain identifiers (particularly name, date of birth and nationality), these are not universally known, static or verifiable. It is flawed to assume that people always have a 'real' name, made up of (at least) a chosen first and inherited second name, and that the names are spelt and ordered consistently and do not change over time, except in authorized ways. Naming systems vary between countries, and spelling discrepancies result from low literacy, transliteration from other alphabets and recording mistakes. So, what the UKBA describe as 'aliases' might be produced by reasons other than an intent to deceive. With one detainee I knew, the UKBA incorrectly recorded his date of birth and mistakenly swapped round two letters of his name. When he pointed out the error, he was accused of lying about his identity. He was eventually given travel documents with the incorrect identity details.

Potentially any travel he made with this incorrect but UKBA-verified identity document would have amounted to a criminal offence, but so too would refusing to cooperate with his own removal, raising a rather Kafka-esque dilemma.

There is also an erroneous expectation that people always know their date of birth; that it is an important self-identifier, a specific and static 'fact', and that it can be confirmed with documents. In fact, problems frequently arose owing to translation between calendars. Orphans, street children or people from countries that did not routinely issue birth certificates also often did not know their exact age. This caused problems for a bureaucracy that insisted on knowing the birth dates of not only of applicants but often their parents, siblings and partners. Where ignorance was not acceptable, people said they felt forced to 'invent' a date of birth.

Although many of the examples above might be considered fraud, it is questionable to what extent certain identifiers can be proven in the absence of functioning state registration apparatuses. Specific dates of birth cannot be determined unless recorded at the time, and even approximate ages are 'virtually impossible to assess … even using scientific or medical assessment processes'.[29] Nationalities are uncertain, multiple, contested or not provable, and unless one's name is fixed by the state through birth certificates or databases, it is questionable to what extent it is a 'fact' at all. If so, a recently invented name might not be a 'lie' at all.

Implications for individuals

The chapter has suggested that asylum seekers often do not have the kind of proof of identity required by the authorities, making them anomalous in a country that increasingly requires fixed and registered identifiers. The implications of uncertain identity were broad and affected the outcomes of asylum claims, people's access to legal representation and support from MPs, and their likelihood of being released from immigration detention. It reinforced the authorities' assumptions about people's credibility and criminality, making them vulnerable to exceptional treatment such as indefinite detention. Being unsure of someone's identity seriously affects trust on a personal level, including among staff in detention centres,[30] and is harshly judged in the criminal justice sphere. As one detainee told me:

> In Greece they took my fingerprint but the police did not detain me. … I came to this country and immigration have said that I am

> a liar and that nothing I say is true because of my fingerprint in Greece. (Detainee, 2009)

In addition to not having (trusted) identity documents from overseas, asylum seekers are given few identity documents in the UK and are ineligible for most forms of mainstream identity documents, either owing to their immigration status or lack of 'breeder documents' such as passports and birth certificates. For those outside of immigration detention, being undocumented in this way generated a range of practical problems and prevented full inclusion in society.[31] For example, Musa was a 22-year-old Kurdish asylum seeker living in Oxford who had spent several years waiting for a decision on his claim. Musa's only proof of identity was a tattered Home Office letter:

> For five years like I didn't have *any ID*. Like, to show somebody, to prove my [sic], it is me. With a picture to say 'yeah this is your life'. Nothing. (Interview, Oxford, May 2009, his emphasis)

Although (most unusually), Musa was allowed to work, without evidence of his identity he struggled to find employment, could not open a bank account and was afraid of the police.

Musa's lack of identity documents also impacted on his sense of self as a young man. He was ashamed at his inability to get a mobile telephone contract, or prove his age in order to buy alcohol or go to clubs. The emotional impact was highlighted by his cousin Khalid's description of Musa's delight at obtaining a bus pass:

> He very happy! First time he buy bus card, [with his] picture, he say 'Khalid! I have one ID for my bus card! See! My picture, my ID!' (Interview, Oxford, May 2009)

This equation between documentation and normality was echoed by many others. One refugee in Oxford expressed shock that a British mutual acquaintance did not have a passport, saying:

> If you don't have this [passport], you don't exist. You're not British. (Oxford, 2008)

Herzfeld argues that identity papers such as passports can become reified to the point that paper and person become inextricable.[32] Among my informants, a lack of identity papers negatively impacted upon a

person's sense of self. This extended post-deportation, with a failed asylum seeker contacting me from Togo to say the police had confiscated his ID and had told him that without a bribe:

> They destroy the passport card, identity cards and university card and more what I feared [sic] they destroyed my identity. (Ex-detainee, e-mail, 2008)

The power of papers to transform or create people rather than simply verify them is recognized by social scientists and historians. Indeed, some suggest that today, by 'proving' nationality, identity papers define personhood and create legal citizens from individuals.[33] Having said this, some of my informants said they primarily valued identity documents for their practical, rather than emotional, benefits.

Another area of repercussion involves deportability. Those people who fall into the limbo between having one identity disproved and another re-established, can become stuck in detention, effectively undeportable but deemed too undesirable to be released. So-called 'disputed identity' (or more accurately 'disputed nationality') cases can result in very long detention while the authorities slowly argue about whose responsibility an individual is. I spoke to several detainees who were incarcerated for over a year in this way, with one man waiting 17 months before he was even interviewed by an embassy. The situation worsened for those who were interviewed and rejected by embassies. They suffered 'an absence of identity',[34] in which they were trapped in bureaucratic anonymity.

In addition to lengthy detention, people in such situations of impasse were sometimes threatened with the imprisonable offence of non-cooperation with the removal process, under Section 35 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004. Assuming that sometimes embassies incorrectly reject people, such individuals are in an impossible situation – liable to long-term detention and even criminal imprisonment unless they agree to a nationality that is not theirs (normally something that would be an identity or immigration offence in itself). This was the situation for an African man at Campsfield who wrote to me to say:

> [My caseworker says] that I have not been cooperative with the arrangement of travel document. To the best of my knowledge and ability, I have given all information I can give about myself and my nationality. One thing I would not do is allowed [sic] anyone to impose on me, a country I do not belong and if the Immigration

> couldn't get me a travel document for 15 months that I have been detained, I don't know how long I would have to wait. (Detainee, 2009)

For others, this '*de facto* statelessness'[35] could become so intractable that the detainee was eventually released or – in very extreme cases – recognized by the UKBA as officially stateless.

In addition to having a professed identity disbelieved, several informants had problems with *imposed* identities. Rather than being unable to prove that they *were* someone, such people struggled to prove they *were not* somebody. This memorably included a detainee, Jack, whose stated Liberian nationality was disputed by the Liberian embassy, with an official there suggesting that he might be Nigerian instead. Although the Nigerian embassy initially refused to accept Jack, after several months in detention, they agreed to issue him with travel documents. Despite vehemently rejecting this nationality, Jack was removed, to the 'wrong' country. Over the last 18 months he has remained in contact with me as he desperately attempts to travel by foot to Liberia, a challenge made near impossible by his lack of money or documentation. When I last spoke to him, he had crossed several countries and told me:

> I'm very stranded. … I don't have nothing, no documents, nothing. I don't have *nothing* with me … it is very very very bad for me. (2010, his emphasis)

In other instances, imposed identities occurred when the UKBA did not accept an apparently fake identity document as being false. For example, Abdi was a Sudanese asylum seeker who had come to the UK and claimed asylum several years before I knew him. In the UK, a friend helped him obtain a driving licence that was in someone else's identity in order to work. Eventually the licence raised concerns, and when arrested Abdi initially claimed to be the person on the licence. The police and UKBA accepted that he was this other man who it transpired was a refused Somali asylum seeker who had been deported years earlier. It was then discovered that the licence Abdi possessed was an unauthorized copy rather than the original. So somewhat ironically, Abdi was charged with fraud for having an illegal copy of the licence, while simultaneously still treated as the man identified by the licence. The authorities would not accept that he was actually Abdi and sought to (re)deport him to Somalia. Because of the confused identities, he was refused any financial support while his immigration case was examined.

It was only at a third court hearing to appeal this decision that the UKBA was instructed to support him, after the judge agreed that there was no proof that he was *not* Abdi, even if there was none that he was.

Identification, identity and the question of protection

I have suggested that in both a real and imagined sense, and certainly in comparison to citizens, the identities of (failed) asylum seekers can be fluid, multiple, tenuous or fictitious. Some people created new identities, were bureaucratically identity-less, or had acquired 'wrong' identities that could not be shaken off. They struggled with inflexible bureaucracies and flawed official identity expectations, but also were active in negotiating, altering, appropriating and evading identification regimes, sometimes – but not always – to their advantage. In parallel, there were political and public concerns that anonymous foreigners could steal or replicate the identities of British citizens, with biometrics presented as the means to tie identities to individual bodies.

As interconnected identification requirements continue to spread across society, the impact of being without a state-sanctioned set of identifiers is increasingly significant. The unclassifiable social 'anomalies' – from transsexuals to undocumented foreigners – that slip between identification categories, not only experience practical difficulties but tend to be viewed as problematic in themselves rather than victims of imperfect bureaucratic assumptions. A hyper-emphasis on identity in the asylum system means that it had become conflated with the concept of 'truth' and the validity of protection requests. As a result, judges and civil servants can refuse asylum by demonstrating that a person is not who they purport to be, rather than by establishing the veracity of their asylum claim, as difficult as that is. Asylum is thereby construed as an issue of identification, rather than of politics or the world order.[36]

In these various contexts, differing constructs of identity pull the concept in different ways, from the genetic and biological, to the essentialist, fluid or commoditized. In relation to *deciding* asylum claims, the UKBA's concept of identity refers to a static core of central identifiers (name, date of birth, nationality), surrounded by increasingly irrelevant and changeable layers of identity. A pictorial representation of this is given in the Home Office strategy paper *Safeguarding Identity*,[37] which presents an Enlightenment-style individual, as a unique, unified and rational entity with an innate inner centre.[38] In relation to the identities of *failed* asylum seekers, however, the UKBA used a much narrower concept of identity. Those facing removal to European member states

under the Dublin Convention were reduced to their fingerprints, with name and other identifiers specifically not relevant nor recorded (on EURODAC). The sole identifier deemed relevant to detainees being deported outside of the EU was nationality, illustrated earlier by the apparent insignificance of Mohammed Zafar's name.

While the attempts to verify nationality often resorted to biological essentialism, in other arenas – including 'identity theft' and the power of states (and their embassies) to deny identities – identity was a government-owned entity or individually possessed commodity. Furthermore, the debates around biometrics suggest an almost Descartian division of identity between the biological and biographical.[39] These few examples suggest that 'identity' is a fluctuating artefact rather than *a priori* fact. Recognizing this opens space to acknowledge that when identification fails, it may be due to a clash between model and reality (especially if differing cultural norms are involve), rather than simply evidence of deception.

This chapter has argued that a binary notion of 'truths' and 'lies' in relation to identity is too simplistic. Alongside what appeared to be clear-cut deceptions were mistakes by the authorities that created false identities (and identity documents), individual attempts to illegitimately buy into an identification regime they were excluded from, and bureaucratically encouraged invention of supposedly basic but often unknown identifiers. Furthermore, identifiers are not the unconditional 'facts' that accusations of deception or identity offences might suggest. Without fixed records individuals are free to call themselves whatever they wish, as long as they do not commit fraud, but with identity databases, names and other identity markers become state-sanctioned labels.[40] In this way, identifiers become possessions that the state has the power to confirm or deny. Despite claims of increased efficiency and security, such systems also produce risks. Although citizens are not immune to identity failures, a greater burden is carried by the non-legible: those Others not incorporated in identification systems, and who find that increasingly a name is not just what you are called but what the system confirms.

Migration powerfully illuminates the global inequalities and prejudices in identification regimes, resulting from varied domestic technologies and priorities, inconsistent individual access to and incorporation into identification systems, and hierarchically valued national identity documents, all amplified by the variations of culturally specific models of identity. For those foreigners caught up in this disjuncture, some encountered a liminality of potential created by bureaucratic uncertainty and invisibility. But for my informants at least, they were more likely

to become indefinitely incarcerated as various authorities fought over their identity. As one's right to be protected from persecution becomes subsumed by the state's right to know the identity of those in its realm, identification has not only become criminalized, but an issue – at risk of sounding dramatic – of life and death.

Notes

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7. Lyon (2009) *Identifying Citizens*, p. 53.
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10. Lyon (2009) *Identifying Citizens*, p. 90.
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pp. 703–19; B. Muller (2004) '(Dis)qualified bodies', *Citizenship Studies*, 8:3, pp. 279–94.

12. European Commission (2011) *Report from the Commission to the European Parliament and the Council: Annual Report to the European Parliament and the Council on the Activities of the EURODAC Central Unit in 2010*. Brussels, 12.9.2011 COM(2011) 549 final, p. 11.
13. Groebner (2007, trans. 2004) *Who Are You?*
14. A. Ellermann (2010) 'Undocumented Migrants and Resistance in the Liberal State', *Politics and Society*, 38:3, pp. 408–29; D. Papadopoulos and V. Tsianos (2007) 'How to Do Sovereignty Without People? The Subjectless Condition of Postliberal Power', *Boundary*, 2, 34:1, pp. 135–72.
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30. A. Hall (2010) '"These People Could Be Anyone": Fear, Contempt (and Empathy) in a British Immigration Removal Centre', *Journal of Ethnic and Migration Studies*, 36:6, pp. 881–98.
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Afterword: The Future of Identification's Past: Reflections on the Development of Historical Identification Studies

Jane Caplan and Edward Higgs

As the chapters in the present collection show, the history of the techniques and technologies of identification is a young and vigorous field of research. The present volume is a worthy sequel to Caplan and Torpey's groundbreaking collection of 2001, *Documenting Individual Identity: The Development of State Practices in the Modern World*, and the pioneering work of Gérard Noiriel on France and beyond. It also follows in the wake of substantial recent monographs by Pierre Piazza and Vincent Denis, among others, on the history of identification in France, Simon Cole and Chandak Sengoopta on fingerprinting, Valentin Groebner on identification in Renaissance Europe, Edward Higgs on England, Craig Robertson on the US passport, and the sociological works of David Lyon and Claudine Dardy.[1] In the wake of 9/11 and the development of the new biometrics industries, knowing who is who is a live political, commercial and intellectual issue. The question arises, therefore, as to where this collaborative research project should go next. Futurology is a justly suspect activity, and it would not be appropriate for us to attempt to set agendas, or stake out ground, for others to follow or explore. However, some comments on areas of the subject of identification that have not yet been fully examined might encourage others to develop their own research agendas.

Although the work published here and elsewhere has by now ranged over many societies and time periods, there are still significant gaps in our knowledge. In the European space, for example, we really know very little about the character of the identification practices that we are aware existed in the medieval and early modern worlds, although Groebner's work reveals some of this, as does the recent work of B. M. Bedos-Rezak on the pre-modern period.[2] Here we encounter some processes and forms that are very familiar, but there are others that appear, at first

sight, as strange as the paintings of Hieronymus Bosch. This is even truer of the classical world, where identification practices have yet to receive any significant scrutiny. In the absence of detailed research on identification within these earlier eras, historians of later periods can only gesture towards what they think might be the generic qualities of identification systems and practices, and risk falling back on truisms and teleologies. Systematic national and transnational histories of identification practices – especially of a disciplined comparative nature – are also for the most part missing or fragmentary, even as our collection of geographical 'spotlights' grows ever more comprehensive (ranging from Iceland to South Africa, and Russia to Argentina in the context of the present collection). This means that we lack the resources for reliable historical comparisons, and for understanding the basic principles and procedures that emerged to manage the boundaries between and the space within communities, which eventually, became the procedures used for administering empires and modern nation states.

If we turn to the contemporary world, the explosion of digital identities and biometric technologies has only just begun to be chronicled, largely owing to the efforts of David Lyon and his colleagues, while its integration into historical contexts and discussions also remains in its infancy. There are also cultures and societies outside Europe whose practices of identification are little known in the West, such as Imperial China, sub-Saharan Africa prior to the European conquests, or South America before Columbus. It is only when we have a more comprehensive understanding of the geography and chronology of developments in identification that we can start to see larger patterns in the ways that the basic questions, 'Who are you?' and 'How do I know who you are?', have been asked and answered. What determines the sorts of techniques used, and who they are used on? What underpins the nature of political power; social conventions; the structure of the state; geographical mobility; the autonomy of the individual; the nature of economic relationships; the ownership of resources, and so on? And this is not an either/or catalogue: the answers are likely to lie in combinations of these and other determinants. Big history requires lots of little histories. To elaborate comparative case studies, we first need the analytical wherewithal to answer the question 'cases of what?' in order to know what constitutes a convincing set of cases. This is complicated, of course, in the recent past by what we might call the ever intensifying internationalization of identification. To the extent that the modern nation state was the paradigm for the elaboration of identification systems in the era of the ID card and passport, is it still the locus of decision-making

on ID, or are international bodies such as EU, the UN, Interpol, and the International Civil Aviation Organization leading the way? Or do these just take their lead in the securitization of identity from the USA?

Indeed, the scope of enquiry is such that we need to continue to be attentive to the insights of anthropology, computer science, sociology and other disciplines, and to integrate them where useful into the historical imagination. Historians have been very active (some might say too active) in incorporating the works of leading figures from other intellectual domains into their work. However, as historians of identification we have so far been very selective in our borrowings, both in terms of disciplines and particular thinkers. We have been less receptive to other insights. What, for example, is the relationship between the psychology of perception and cognition, and the identification of people in photographs or descriptions? Historians also need to enter into a meaningful dialogue with policy-makers and the developers of new sorts of identification technology in order to understand the imperatives and constraints under which they work. This should not be an uncritical encounter, but one that might bear fruit for both parties. It is also one that historians and other scholars need to initiate, since both policy-makers and the burgeoning identification industry appear content to forge ahead without any knowledge of the past, and thereby repeat the misperceptions and mistakes of their forebears.

This encounter might also force more historians to examine the Janus faces of identification. Much of the literature on the history of identification tends to assume that identification curtails freedom, and ties people down in a 'grid of power' in the interests of political and economic elites. But, as most of the contributions to this collection demonstrate, this is perhaps too simplistic, and can risk reducing all public activities to the operations of power, flattening out historical specificity and the dynamics of change, and ignoring the ways in which identification regimes could confer benefits upon and therefore be embraced by their target communities. Historians need to examine the ways in which identification can offer choices and freedoms, or at least play an active role in creating certain sorts of identities that individuals find attractive and useful for their own purposes. ID cards may be used for surveillance, repression and even extermination, but they can also be used to create rights to property and access to welfare, mobility, voting, labour markets and social services and other social benefits. Identification can offer recognition of the disenfranchised by those who otherwise may ignore them. In modern India, for example, millions of people are eager to obtain unique identifiers and ID cards in the Aadhaar project, while

thousands of displaced persons without papers would give a great deal to belong to a state via a passport.[3] Identification can also provide emotional benefits to the relatives and friends of the victims of disasters and massacres, who desperately need the proven remains of loved ones for the purposes of mourning. At the same time, we need to be attentive to the precise terms under which such technologies are made available, what strings are attached to them, what information is encoded without being legible to the bearer, and what opportunities they offer for deliberate or unintentional function creep. But it is only when we have a fuller picture of the meanings and uses of identification from the perspective of its objects that we will be able to fully comprehend its role in history and contemporary society.

This is particularly true of the forms of identification and recognition made possible by internet technology. Millions of individuals are happy to carry store loyalty cards that encode invisible personal information about them, and others, especially young people, broadcast their most intimate details and preferences on social networking sites, as if their only interlocutors were their 'friends'. Are they just ignorant of the risks to privacy and the targets they represent to commercial exploitation, or do they feel that they receive real benefits that outweigh the risks? Or does this represent a failure to understand the scope of such systems – do people see Facebook and the like as their protected social space, a world of families and friends, rather than a corporate space in which their social identity is the commercial product rather than the application itself? Indeed, the complex relationship between identification and identity warrants further investigation. Does holding a British passport make one 'feel' British, and does receiving 'bonus points' at a particular supermarket make shoppers identify with that retailer? The latter was certainly the aim of businesses in Britain when they introduced such schemes in the late 1990s.[4] More importantly, in what contexts is the passport likely to be seen simply as an unavoidable but inert travel document, and in what other contexts might it connote a far deeper and more complex sense of identity – for example, when acquired by someone who has voluntarily chosen a new citizenship, or by a refugee who has been forced to abandon a previous one? Questions such as this bring us back to what might be termed the popular mentalities of identification, and to the importance of returning the attitudes and assumptions of those entangled within particular regimes to the centre of our analyses.

The reference to commercial organizations points to a further field for research, which we can call the commercialization of identification.

With the exception of several contributions to this collection – particularly the articles in Part II – much of the existing historiography is concerned with the conception and implementation of identification systems by states and, more broadly, other political agents or power-holders: for example, to target slaves, subjects, citizens, aliens, criminals and those regarded as deviant. However, political power is not the only source of demand for identification, and the state has never been the only entity imposing it. Indeed, in the contemporary world, despite the reach of states, it is not in fact the state that is the main origin of ID technologies. Doing business with commercial bodies such as banks and retailers, especially as they have digitized their activities, has become the principal point at which people, at least in developed countries, have to identify themselves on a day-to-day basis. Store loyalty cards and credit cards are used much more frequently by individuals than ID cards or passports. In addition, whereas state officials of the nineteenth and early twentieth centuries invented anthropometrics, fingerprinting, passports and related technologies, today governments buy in readymade identification solutions from commercial enterprises such as Digimarc and Morpho. Companies like these also invest considerable funds and efforts into anticipating identification and security challenges before governments have even articulated them, and pitching new technologies as answers to needs that have barely been formulated by state actors. These new kinds of partnerships raise particularly urgent questions for research. Does the spread of such new technologies represent the needs of the state, the interests of the public or the profit-driven objectives of private enterprises? Indeed, is it still possible to talk in terms of discrete entities such as state and commerce, or do we need to talk in terms of 'identificatory complexes' in which both are joined? In an example given above, the Aadhaar project in India may be state-sponsored but it is delivered on the ground by commercial organizations, and has as its express goal the marketization of the Indian population. What dynamics have driven these developments in the past, and what is qualitatively new? An historical perspective on such issues is the prerequisite for such questions to be posed and answered.

Among the interesting approaches to identification being developed in this collection, as well as other works, is an emphasis on what we might term the *materiality* of bureaucratic processes, a theme that looks likely to be further explored in the future. How exactly is identification put into practice and enacted? What are the performances that are required, by traveller and passport official, for example, at the registration of a birth or death, or for a legal change of personal name? What

physical tokens of identity have to be produced for these transactions; how are they created, registered, tracked and indeed forged? What are the possible sites in which these activities take place: the town hall; the court of law; the liminal, boring and (for some) unnerving space of the immigration queue? All these questions, essentially relating to micro-processes within concrete and specific sites and settings, lead on to much bigger issues. Examining the roles people are required to perform encourages us to look at how people take up identities such as 'citizen', 'consumer' and 'official', or have them forced upon them, and what they mean at specific points in time and space. How 'papers' are created requires an investigation of legislative activity, the design of artefacts and the circulation of documents within institutional structures of which they are also constitutive: all processes in which power and authority are exercised, decisions made and life chances determined. Understanding these processes also helps us to discover how such mechanisms have been undermined and side-stepped, not only by the devious and criminal, but equally in the name of necessary resistance and the honourable or salvationary evasion of tyrannical regulations. Where there is the document, there inevitably is also forgery; and similarly, whenever desirable and dangerous identities are clearly delineated, there also will be impersonation, passing and imposture, subjects with their own rich and fascinating history. Finally, the discussion of where identification takes places opens up the whole question of the spatial nature of power, whether in the creation of borders, the architecture of institutional settings, or the emergent and ever-shifting digital geographies of the internet and cloud computing.

We might also ask how and why such processes come to be naturalized and trusted, both by those being identified and those doing the identification. This is especially important given the obvious fact that some forms of identification in some encounters imply that people in fact distrust one another. Why are some institutions trusted, while others are not? Why do people in Britain fear being identified by the state but seem quite happy to identify themselves to banks? Why do some techniques come to be trusted at certain periods, whether the seal embodying the personality of the sealer by analogy to the presence of Christ's body and blood in the Eucharist, or modern biometrics whose success rates are underpinned by probabilistic testing? How do certain holders of knowledge and expertise, such as the medieval church, or the mathematicians and IT scientists who test biometrics systems, acquire the power to verify the trustworthiness of such techniques? This leads us, in turn, to ask how certain of the practical forms of identification

have been affected by broader changes in the nature of social and cultural norms. Does identification by oath-givers in the medieval period reflect the personal nature of power and authority? Does the rise of the signature reflect the formation of a literate society and a state bureaucracy? Do the shifts in identifying the deviant, from marking the body to recording bodily systems on paper or digitally, reflect broader changes in the way in which the human body is understood and used? Plainly, the history of identification raises a plethora of questions that could, and ought to, form the basis of much further enquiry.

Perhaps enough has been done here to indicate that the subject of identification in history has not been exhausted. Like all really interesting concepts, identification is not something that narrows or circumscribes thought but helps to bring together disparate concerns, debates and phenomena. It makes us think about connections, conjunctions, and underlying structures and shifts in history. This is one aspect of the past that certainly has an interesting future.

Notes

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