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Colin Koopman

Bonnie Sheehey

Patrick Jones

Laura Smithers
Old Dominion University

Sarah Hamid

See next page for additional authors

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Authors

Colin Koopman, Bonnie Sheehey, Patrick Jones, Laura Smithers, Sarah Hamid, Claire Pickard, and Critical Genealogies Collaboratory

ORIGINAL ARTICLE

Standard forms of power: Biopower and sovereign power in the technology of the US birth certificate, 1903–1935

Critical Genealogies Collaboratory*

University of Oregon, Eugene, OR, USA

Correspondence

Colin Koopman, University of Oregon, Eugene, OR 97403, USA.

Email: koopman@uoregon.edu

*This article is co-authored by members of the Critical Genealogies Collaboratory based at the University of Oregon. Contributing authors to the article are (in order of number of years participating in the collaboratory): Colin Koopman (Associate Professor, Philosophy), Bonnie Sheehey (Ph.D. Candidate, Philosophy), Patrick Jones (Ph.D. Candidate, Media Studies), Laura Smithers (Ph.D. Candidate, Education), Sarah Hamid (Social Media Collective, Microsoft Research), and Claire Pickard (Ph.D. Candidate, Philosophy).

1 | ARTICULATING POWER

One of the central analytical insights of Michel Foucault's enormously influential political philosophy is that power is not unitary. Power does not always take the same form. Power has long been assumed to issue simply in the sovereign power's mandating tactics of prohibition and permission. Foucault argued that, in addition to sovereign power, there also exists a disciplinary power of normalization and a biopower of regulation, each of which operates through techniques that are irreducible to classical sovereign strategies of unimpeachable authority, military violence, and legal mandate.

Foucault's analytical attention to power's multiplicity and heterogeneity raises a number of theoretical challenges for those who take up the work of a political philosophy of power in his wake. Among these is the difficult question of the relationships among the different modes of power identified by Foucault.

This challenge has been the subject of a great deal of commentary on Foucault's work, much of it critical. For instance, Roberto Esposito (2008) has argued that the challenge of specifying this relation betrays "a hermeneutic impasse" (p. 43) left unresolved by Foucault's work (and which he attempts to resolve with his theory of the politics of immunity). According to Esposito (2008), Foucault's analyses leave him caught between hypotheses of continuity (p. 43) and discontinuity (p. 39) over the relation between sovereign power and biopower (Esposito leaves disciplinary power to the side, and so too shall we here). This criticism develops a theme announced by Giorgio Agamben (1998) in his positioning of *Homo Sacer* as concerned with "precisely this hidden point of intersection between the juridico-institutional and the biopolitical models of power," (p. 6) or what he theorizes as "biopolitical sovereignty" (p. 114, see also p. 181). In the most recent contribution to these debates, Penelope Deutscher (2017) has responded to Agamben's and Esposito's analyses by turning the focus away from the oscillations apparent in Foucault's work and towards what we can do today to mobilize the implied capacities and underdeveloped potentialities of genealogy (p. 111). Deutscher's analysis thus proposes this crucial question: "What then allows the coalescence of an apparatus [of power] ... or allows us to identify the assembling, heterogeneous technique of a mode of power" (p. 27)? This

question opens the theoretical option of asking about the particularities and specificities of the way they coalesce across differing modes of power insofar as they operate in exchange with one another.

These debates over the relationship between biopower and sovereign power can be pursued in light of an alternative that Esposito presents as frustratingly undecidable, but which Deutscher takes up as a productive question. The alternative, in Esposito's (2008) framing, is this: does biopower replace sovereign power or does it complement it (p. 40)? Foucault's (1990) own statements in *The Will to Know* (*La volonté de savoir*, translated into English under the uninspired title of *The History of Sexuality, Volume One: An Introduction*) suggest both readings. At first he says, "It is not exact to say that the [biopolitical] deployment of sexuality was substituted [*substitué*] for the [sovereign] deployment of alliance" (Foucault, 1990, p. 107, translation modified) Later he asserts, "One might say that the ancient [sovereign] right to *make death or let live* was substituted [*substitué*] by a [bio-] power to *make life or disallow* it to the point of death" (Foucault, 1990, p. 138, translation modified). The alternative between an analysis of differing modes of power as either substitutive or complementary is in part an issue of whether we understand Foucault's analyses of power as accounting for the entirety of an epoch or era. If Foucault's analyses are understood as studies of successive epochs in their totality (for instance, as analyses of modern versus premodern powers), then his claim would have to be that one mode of power replaces or supplants another. But if Foucault's genealogical analyses are understood differently, as critical interrogations of regional assemblages of power, then it seems possible for differing modes of power to be layered upon one another such that it would properly be a historical (rather than transcendental) question if in fact they actually are layered in a given instance. This is the route we pursue in what follows: the path of particularization.

Anthropologist Stephen Collier (2009) points towards such an approach to these problems by attending to the development over time of Foucault's methodology:

Foucault's initial analysis of biopolitics was couched in surprisingly epochal and totalizing claims about the characteristic forms of power in modernity . . . [But later work] examines how existing techniques and technologies of power are re-deployed and recombined in diverse assemblies of biopolitical government. (p. 79)

As evidence for Collier's claim about the tendencies of Foucault's later work,¹ consider that on the heels of his book-length studies of modern power in 1975 and 1976, Foucault (2009) offered his audience at his 1978 Collège de France lectures the following definitive claim:

We should not see things as the replacement of a society of sovereignty by a society of discipline, and then of a society of discipline by a society, say, of government. In fact we have a triangle: sovereignty, discipline, and governmental management. (p. 107)

Foucault (2009) here clearly rejects any endorsement, perhaps apparent in his earlier work, of epochal and totalizing analyses of power: "There is not the legal age, the disciplinary age, and then the age of [biopolitical] security" (p. 8). This is evidence of a tendency in the development of Foucault's thought toward regional analyses of power that would situate the alternative between substitutive and complementary analyses as an issue to be resolved not by a general theoretical principle but by way of regional inquiries into particularities.

We here pursue one such path of particularity to navigate the theoretical difficulties raised by critics who would otherwise shift the resolution of those difficulties to ontological and transcendental levels. We suggest that what is needed is specific analyses of how practices expressive of differing modalities of power do, in actual historical instances, join into composite forms. Such a strategy is already signaled by Deutscher's (2017) response to critics such as Agamben and Esposito: "Foucault argued that the techniques of different modes of power could have multiple valences yet operate in tandem . . . [M]odes of power are differentiable technically and tactically, yet come into contact in a number of ways" (p. 23). We seek to analyze tactical and technical combinations of power by way of invoking an underdeveloped category in Foucault's work: that of *l'échangeur* (the exchanger). Foucault developed this concept as a way to identify and analyze elements that act as switch points or relay junctions between various types of discursive practices. Here, we mobilize the exchanger in our historical analysis as a mechanism for examining the interrelationships between sovereign power and biopower.

In suggesting that the theoretical issue of how modes of power relate is enriched by empirical analyses we do not intend to affirm any kind of simplistic empiricist epistemology. Our call for empiricism, rather, follows Foucault's own practice of immersing his theoretical researches in the bath of archival material. This was for Foucault, and is for us, a kind of "critical empiricism," (Koopman, 2014, 2015) or what we might also call "kinky empiricism" (Rutherford, 2012). In taking Foucauldian genealogy as empiricist in this sense, we thus locate our effort in a methodological space shared by an increasing number of political theorists developing Foucauldian critique by way of empirico-genealogical investigations of contemporary political realities (see Dilts, 2014; Erlenbusch-Anderson, 2018; McWhorter, 2009; Olson, 2016).

Accordingly, one of the central methodological bearings of this article is that analyzing the relationships among different modalities of power requires historical, or otherwise empirical, inquiries into how modes of power operate in specific contexts. This empirical approach contrasts with strategies of solving the problems of political theory by way of ontological speculation. That said, we do not seek to disclaim or disprove ontological analyses that transcend the empirical. We merely decline the assumption that ontology must, by default, come first. No doubt a critic of our empirical approach could show that our methodology carries implicit ontological choices. Yet from this it does not necessarily follow that attention should be directed to those ontological implications prior to taking up the work of historical-empirical inquiry, nor does it even follow that those ontological implications are by default important or even always relevant.

Our general strategy involves considering a specific case of one comingling of sovereign power and biopower. Our particular case for this is the emergence of the standardized birth certificate in the context of the consolidation of a birth registration system in the US from 1903 to 1935. This case is of interest not only as it exemplifies a particularly interesting interplay between sovereignty and biopower, but also as it does so precisely within the terrain of the family, procreation, and reproduction that orients Foucault's genealogical investigations of sexuality in *The Will to Know*, the *Abnormal* lectures, and elsewhere. Thus, we investigate a problematic that is both thematically and historically proximate to Foucault's own researches as a means of testing, refining, and extending a theoretical insight about power spurred by his projects.

The case of birth registration is of further interest because of its location in both our political present and our political history. Consider, for instance, that birth certificates in the American context are today inextricably linked to citizenship and such of its concomitant categories as race and nationality, an observation perhaps made more poignant by Foucault's (2003) analysis in *Society Must Be Defended* of racism as mediating between sovereignty and biopolitics (239–263).² In the decades of emergent standardization that we survey, however, birth registration did not yet figure in such dynamics. Perhaps surprisingly, birth certificates as documents played little direct role in the exclusionist immigration policies of the 1910s and 1920s. For example, the 1924 Rogers Act implemented a nativist quota system on the basis of an administrative apparatus focused on the paperwork of visas and passports (Robertson, 2010, p. 177; Zohler, 1997, p. 309). That said, birth registration did come to be leveraged for precisely those purposes in later years, as recent "birtherism" has made visible. It can also be observed that the very conditions in which standard birth certificates emerged was one in which many other new forms of documentary identification were being employed to develop what Rogers Smith (1997) has called "the new restrictive Americanism" (p. 446), and what Mae Ngai (2004) has called "the invention of national origins" (p. 36). Indeed, the large role played by the Census Bureau in standardizing birth registration, as recounted below, no doubt facilitated the later use that nativist employments made of it, insofar as the decennial census data in this period was, as Debra Thompson (2016) observes, "the centerpiece of exclusionary immigration policies" (p. 80); see also Ngai (2004, p. 32).

To develop the specific argument about birth registration that we have proposed, we begin by explicating how Foucault's methodological category of the exchanger can help to realize the advantages of an empirico-historical analysis of the conjunction of modes of power (Section 2). Next, we turn to the historical excavation of the emergence of technologies of standardized birth registration (Section 3). Finally, we assess the relevance of the history of birth registration to our central theoretical problematic of how modalities of sovereign power and biopower relate (Section 4).

2 | FOUCAULT'S *échangeur*

Our argument makes use of a productive methodological category that is scattered across a number of Foucault's diverse empirical investigations from the 1970s. Foucault's term *échangeur* is variously translated in English editions as "exchanger element," "switch point," "interchange," or even "connector." The term has received little attention from scholars (Mader, 2012, p. 46; our understanding of this concept was also informed by unpublished work by Alex Feldman), perhaps owing to the slipperiness of the French term *échangeur* in translation (making it difficult to recognize across differently translated English editions), and most certainly due to the term's relatively infrequent occurrence in Foucault's writings. Whatever the cause, this lack of attention is unfortunate, for the idea is remarkably useful in explicating how heterogeneous practices expressing different modes of power can be articulated with one another. The exchanger provides a way of seeing how differing forms of power can come into contact without either being opposed to one another (as contradictory unities) or successively subsumed or replaced by one another (as unified totalities).

Foucault's first (to our knowledge) use of the category of *l'échangeur* was in his 10 January 1973 Collège de France lecture, which is part of a series posthumously published as *The Punitive Society*. There he used the term to describe a particular connection that was established between discourses of crime as social hostility and discourses of the criminal as a public enemy (Foucault, 2015, p. 34). Appended to the published version of the lecture in a footnote are five manuscript sheets, which Foucault appears not to have delivered during the lecture itself. In these sheets, composed in a telescopic shorthand that explains the grammatical infelicities, Foucault (2015) wrote of the exchanger: "It is an element that cannot be localized exactly here or there. But that circulates from one to the other, passes from one to the other ... a transcriber [*transcripteur*], an exchanger [*échangeur*]" (p. 3).

Beginning here, and for at least the next six years, Foucault occasionally revisited the category of the exchanger, deploying it in a variety of ways to refer to connections between differing kinds of elements.³ Foucault employed the exchanger to connect various theoretical and practical types of discourse (2015, p. 34); different discourses in a general or unrestricted sense (2004, pp. 33, 161; see 1994a, p. 462); different modalities of power (2015, p. 131); different geographies of power (2015, p. 160); different *dispositifs* (2008b, p. 83, 1990, p. 108); different institutions (2004, p. 35); mechanisms of power with their function (1995, p. 206); different areas of knowledge (1994a, p. 155; see Foucault, 1995, p. 187); different elements in a very general sense (2009, p. 215); and different techniques of power such as the law and the norm (Foucault, 1994b, p. 108, 2008a, p. 260, 2015, p. 54).

One of the most visible uses of the exchanger element is found in Foucault's (1990) account in *The Will to Know* of how two *dispositifs* (apparatuses or deployments) became "superimposed" on one another (p. 106). On this account, the *dispositif* of sexuality that is concerned with the body, its pleasures, and its reproductive capacities is joined to the *dispositif* of alliance that is focused on kinship, bloodlines, and the transmission of title. As Foucault (1990) describes each *dispositif*, it is clear that sexuality is biopolitical whereas alliance is heavily invested in sovereign power's division between what is and is not allowed: "The deployment of alliance is built around a system of rules defining the permitted and the forbidden, the licit and the illicit, whereas the deployment of sexuality operates according to mobile, polymorphous, and contingent techniques of power" (p. 106). How, then, did these two *dispositifs*, operating through differing modalities of power, become entangled?

It is in Foucault's answer to this question that we encounter the exchanger. Foucault argues that the family functions to articulate a biopolitical project of sexuality to a sovereign project of alliance by serving as an exchanger between both. He writes: "The family is the exchanger of sexuality and alliance: it transports the law and the juridical dimension in the deployment of sexuality; and it transports the economy of pleasure and the intensity of sensations in the regime of alliance" (Foucault, 1990, p. 108, translation modified). *The Will to Know* is a text rife with conjunction, connection, and other such conjugations. Foucault used *échangeur* only once amidst all this hooking up. In this single instance he offers little more than a suggestive methodological lead, yet we find this a productive path for critical inquiry into connections between biopolitics and sovereignty.

Foucault's earlier usage in *Abnormal*, a set of lectures delivered only a few months after submitting the final manuscript of *Discipline and Punish* and while he was already working on *The Will to Know*, is of particular interest for us. Foucault (2004) there uses the term to describe how perversity (p. 32), as a specific instance of a more general

category of abnormal individuals (p. 42), functions as an object of knowledge-power by establishing relations of exchange between “juridical categories ... and medical notions” (p. 33). This exchange supplants what was formerly “the mutual exclusion of medical and judicial discourses” (Foucault, 2004, p. 32). Though Foucault employed the exchanger concept across the 1970s as a connector between many different types of elements, his usage in *Abnormal* is particularly insightful insofar as it functions to relate previously disconnected discourses in ways that simultaneously maintain their heterogeneity and transform them.

In what follows, we similarly track the emergence of American birth registration as an exchanger between early 20th century discursive practices of public health and legal identification. To do so, we operationalize the category of the exchanger as performing the following five functions: (i) establishing relations between two or more practices, (ii) maintaining those practices in their difference or heterogeneity, (iii) providing additional durability to those practices in the reciprocal use they make of the exchanger, (iv) transforming those practices and their operations by the use they make of the exchanger, and (v) doing all of this on the very surface of practice itself, which is to say that the exchanger element is not some mysterious motor of transformation that lies secretly beneath practice, but is, as Foucault (2015) clarifies in his manuscript sheets, only ever “what is always said ... and explicitly in the texts, laws, and theories” (p. 37). Two of these functions deserve additional clarification at the outset.

The fourth function of the exchanger is expressive of the fact that the relations established by an exchanger are also thereby occasions for the transformation of practices thus related. To employ an example anticipating the discussion below, when birth registration was used as a point of exchange between public health practices concerned with infant mortality and legal records practices concerned with verifying the age of child laborers, it was used in such a way that both public health and legal records practice were transformed. Birth registration was the very mechanism by which infant mortality statistics became reliable and the mechanics by which child labor legislation could be thought to be practicable. This transformative function of the exchanger bears a strong affinity to recent work in science and technology studies, perhaps most notably to Bruno Latour’s (2005) notion of mediators that work to “transform, translate, distort, and modify the meaning or the elements they are supposed to carry” (p. 39) (see also Bowker & Star, 1999, pp. 15–16, 296–298, 313–314).

The fifth function of Foucault’s notion of the exchanger is also invaluable for understanding how specific technological forms can do work in transformatively connecting other practices. In the context of the larger theoretical issues with which we began above, this function is important in its focus on practices, and practices alone. The practice-to-practice relation analyzable through the exchanger is crucial if we are to avoid the temptation of allowing super-practical agents to do our explaining for us. We have in mind not only clearly problematic categories of explanation like that of *zeitgeist* but also still-popular notions like society, epoch, or system. Thus, for instance, did Foucault (2000) seek to differentiate his work from theorists and historians who “take ‘society’ as the general horizon of their analysis, [as] the instance relative to which they set out to situate this or that particular object” (p. 237). This insight has been more recently relayed in the work of, again, Latour (2005): “The social has never explained anything; the social has to be explained instead” (p. 97). In light of such a detotalizing commitment, Foucault’s notion is a resource for those who commit, as we do here, to a methodology that accepts that only a practice can condition a practice, and that the history of the present can be written from within history, on the basis of nothing more than history itself. The advantage of these methodological commitments are brought into view by a lucid metaphor offered by Paul Veyne. Veyne describes Foucault’s methodology as akin to an iceberg in that what appears above the surface is of the same kind of stuff as that which is submerged below the surface. Rather than relying on an analysis that would foist distinctions between appearance and reality or superstructure and base, Veyne (1996) describes Foucauldian genealogy as situating its *explanans* (practices) as of a piece with their *explananda* (more practices):

There is nothing wrong with calling practice, provisionally, the concealed base of the iceberg, in order to indicate that it presents itself to our spontaneous sight only heavily veiled ... for the concealed base of an iceberg is not some agency that is different in nature from the exposed tip; it is made of ice, like the rest. Nor is it the motor that moves the iceberg along; it is below the line of visibility, that is all. It is accounted for in the same way as the rest of the iceberg. (p. 156)

Veyne's metaphor suggests a commitment to a history of practices that refuses to disembark from the icy flotilla of practices under its survey. This is a commitment to a form of critical inquiry that has only practices at its disposal.

In virtue of all five of these functions, and particularly the last two, we hold that Foucault's attention to functional exchanger elements provides a useful way of attending to how practices themselves can muster the work of practical transformation without standing in need of super-practical material to provoke changes. To develop this, we turn now to birth registration as an exchanger between biopolitical practices of public health and sovereign practices of legal recordkeeping in the first decades of the 20th century.

3 | THE EMERGING AMERICAN STANDARDIZED BIRTH REGISTRATION, 1903–1935

The United States Census Bureau was permanently established in 1902, consolidating the more transient Census Office that, for more than a century, was recreated anew prior to every decennial census and then dissolved at its completion. Almost immediately upon its establishment, the Bureau launched an initiative to encourage states to pass laws standardizing the collection of vital statistics. Detailed requirements for effective collection were specified in the 1903 Model Law of Vital Statistics, a joint effort spearheaded by the Census Bureau and the American Public Health Association, also involving a host of other organizations including the American Medical Association, the American Statistical Association, and the Committee on Uniform State Laws of the American Bar Association. This same year, Congress passed a joint resolution encouraging states to develop a “complete and uniform system of registration” (Census Bureau, 1903a, p. 3) using the Model Law as the basis, the American Medical Association urged local medical societies to assist in the keeping of these records, and the American Public Health Association approved a resolution specifying the standard form and procedures to be used for the registration of births (American Medical Association, 1908/2008, p. 2220; Census Bureau, 1903b, p. 3).

The US was by no means the first nation-state to institute birth registration, and in fact it lagged well behind many European nations, and yet it is a particularly interesting case through which to consider the crossing of sovereignty and biopolitics. To bring this coalescence into view, we begin with a series of 1903 Census Bureau pamphlets promulgating the practices exhibited in the Model Law. These pamphlets served as a primary reference for birth registration advocates and administrators in its early decades. They repeatedly invoked a set of justifications that pointed to the diversity of discursive practices for which birth registration could, and would, be leveraged. A pamphlet entitled “Registration of Births and Deaths: Drafts of Laws and Forms of Certificates” justified the need for standardized registration both for the statistical purposes of public health regulation and population demographics and governmental purposes of legal recordkeeping of benefit to rights-bearing and property-entitled individuals:

Statisticians and students of sociological problems have long since recognized the importance of complete, accurate, and uniform records of birth; but people generally do not so fully appreciate the immediate practical value of such records in the ordinary relations of life. The record of the birth of a child must be made by some other person. The child is incapable of protecting its future interests at the proper time, and some of its most valuable rights and privileges may be placed in jeopardy or entirely lost if the registration of its birth is neglected by those upon whom it is dependent. (Census Bureau, 1903b, p. 3)

A 1908 pamphlet offered its readers an even clearer justificatory typology which would soon be repeated across a range of subsequent publications:

Reasons demanding the registration of births and deaths, stated in increasing order of importance; may be given as follows: (1) Knowledge of the movement of population (demographic uses); (2) protection of the lives and health of the people (sanitary uses); and (3) protection of the rights of the individual and of the community (legal uses). (Census Bureau, 1908, p. 7)

Soon after, in 1912, an American Medical Association publication entitled “Why Should Births and Deaths Be Registered?” answered its own question, referencing “the accurate study of disease and its prevention” and “questions relating to heredity, legitimacy, property rights and identity” (p. 1). The following year, in its very first publication upon its establishment in 1912, the Children’s Bureau (1913) reiterated both the “public health” rationale of use to “sanitarians and practical sociologists” (p. 7) and “the legal uses of birth registration” (p. 9) in disputes over title, inheritance, and such. These three justifications were not the only reasons enlisted on behalf of registration; for example, some boosters referenced economic and commercial gain (American Medical Association, 1912, p. 9). But the trio of legal records, public health and demographic analysis dominated the early efforts, campaigns, and arguments, especially among the state agencies and civic organizations that were the main champions of birth registration.

These and numerous other sources suggest that birth registration practices were established in a way that mediated between diverse sets of practices which we can conceptualize as expressive of sovereign power and biopower. Repeated references to demographic and sanitary practices map quite clearly to Foucault’s concept of biopolitics. Particularly the sanitary or public health dimension of birth registration appears biopolitical in precisely that sense of Foucault’s discussions of the *dispositif* of sexuality cited above: it is oriented around a set of regulations designed to normalize familial reproduction (Foucault, 1990, p. 106). In the context of our inquiry, the single most important sanitary use of birth registration involved attempts to lower the infant mortality rate. Additionally, we can map the invocations of the legal uses of birth registration to Foucault’s concept of sovereign power. Foucault often described sovereign power in terms of its spectacular violence (see Foucault, 1995, pp. 28–29). But there is also, as Frédéric Gros (2016) notes, a legal dimension to sovereignty: “sovereign power is also the power that states the law ... [i]n the sense that it delivers prohibitions, sketches dividing lines, and delimits what is permitted and forbidden” (pp. 260–261)” (see also Foucault, 1990, p. 38). The specific legal function of birth registration expresses well the sovereign operation of prohibition and permission. Insofar as birth registration was regularly defended as necessary for establishing licit claims on title, property, and inheritance, it parallels the way in which title and kinship were similarly shown to be at stake in the discussion of the *dispositif* of alliance cited above (Foucault, 1990, p. 106).

The Census pamphlet from which we have quoted indicates how birth registration functioned as an exchanger insofar as the justificatory apparatus that was mounted in its favor was presented as satisfying the needs of multiple modalities of power. But beyond the level of explicit rational justification, birth registration technologies also pragmatically functioned in a broader array of ways to connect sovereignty and biopolitics. Before presenting evidence of this, we first describe some of the core techniques of birth registration that made it a workable and effective practice. Three such technologies were especially crucial: registration forms, registration administration (in the form of offices for registration kept by registrars), and an information audit system.

3.1 | Registration forms, c. 1903

The Model Law of 1903 provided specifications for two important elements of birth registration: a protocol for the bureaucratic registration of vital events and standard certificates of births and deaths. These two elements taken together constituted a reliable machinery for the production, storage, and retrieval of both population-level data on birth and legal records of personal identity. That machinery relied on both elements operating in tandem, for each would be useless without the other.

The Census Office in 1900 introduced a standard certificate of live birth that would soon come to be disseminated through the Model Law (Brumberg, Dozor, & Golombek, 2012, p. 408). This first standard certificate called for 33 unique pieces of information, including “place of birth,” “full name,” “sex of child,” “whether legitimate or illegitimate,” and “color or race of father” (Census Bureau, 1903b, pp. 6–7). Revisions over the course of the next decade kept intact the basic architecture of the initial form (see Figure 1).

In general, standardized forms create a uniformity in protocols for collecting and storing information. In the case of the birth certificate, it was recognized that the standard form offered the consistency required for establishing, extending, and maintaining what S.N.D. North, then Director of the Bureau of the Census, called “effective registration upon uniform lines” (Census Bureau, 1903b, p. 3). The need for standardization in the practice of vital registration,

United States Standard Certificate of Birth.

Department of Commerce and Labor
BUREAU OF THE CENSUS
STANDARD CERTIFICATE OF BIRTH

PLACE OF BIRTH
County of _____
Township of _____
or
Village of _____
or
City of _____ (No. _____, St. _____, Ward _____)

Registered No. _____

FULL NAME OF CHILD _____
(If child is not yet named, make supplemental report, as directed)

Sex of Child	Twin, triplet, or other? <small>(To be answered only in event of plural births)</small>	Number in order of birth	Legitimate?	Date of birth <small>(Month) _____ (Day) _____, 19____ (Year)</small>
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FATHER FULL NAME _____ RESIDENCE _____ COLOR _____ AGE AT LAST BIRTHDAY _____ <small>(Years)</small> BIRTHPLACE _____ OCCUPATION _____	MOTHER FULL MAIDEN NAME _____ RESIDENCE _____ COLOR _____ AGE AT LAST BIRTHDAY _____ <small>(Years)</small> BIRTHPLACE _____ OCCUPATION _____
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Number of children born to this mother, including present birth _____
Number of children of this mother now living _____

CERTIFICATE OF ATTENDING PHYSICIAN OR MIDWIFE*

I hereby certify that I attended the birth of this child, who was _____ at _____ M., on the date above stated.
(born alive or Stillborn)

*When there was no attending physician or midwife, then the father, householder, etc., should make this return. A stillborn child is one that neither breathes nor shows other evidence of life after birth.

(Signature) _____
(Physician or Midwife)

Given name added from a supplemental report _____, 19____
Address _____
Filed _____, 19____

11-345 II REGISTRAR

6-334 d
V.S.No. 109
(Instructions on certain points may be printed on the back. Size of certificate, 6 1/2 x 7 1/2 inches.)
MARGIN RESERVED FOR BINDING
WRITE PLAINLY, WITH UNFADING INK—THIS IS A PERMANENT RECORD
N. B.—In case of more than one child at a birth, a SEPARATE RETURN must be made for each, and the number of each, in order of birth, stated.

FIGURE 1 Revision of the 1903 Standard Birth Certificate (Wilbur, 1916, p. 25)

specifically the registration of births, was a central point of concern for the many organizations and actors (ranging from medical practitioners to statisticians and lawyers to parents) involved in the production and dissemination of the standard certificate.

3.2 | Registration administrators, c. 1903

Correlating to the standard birth certificate form, a second technology introduced in the Model Law was the standardization of state and local registration administration (Census Bureau, 1903b, pp. 5–11). Prior to the adoption of the Model Law by states, registration was haphazard at worst, and at best a patchwork of functions shared between the Census Bureau and numerous “state and city registration officials” (Wilbur, 1916, p. 25). The Permanent Census Act of 1902 required the Census Bureau (1917) to collect registration information “only from the registration records of such states and municipalities as in the judgment of the Director of the Census possessed records affording satisfactory data in necessary detail” (p. 9). This created conditions for more coordinated state and county-level registration administration that would fit the uniform data requirements being sought at the federal level. This need for uniform data was why administrators like Cressy Wilbur, Chief of the Vital Statistics Office of the Census Bureau (1918), considered consistent and specific state legislation governing the direct return “of the original birth ... certificates from the local registrars to the state registration office” to be a crucial principle of the Model Law (p. 22).

These first efforts at bureaucratic standardization centered on midwives or doctors filing (in person, not by mail) a birth certificate with the local registrar. The local registrar was to ensure the certificate was correct and complete, and then keep the form as a record. On a specified day each month, local registrars sent all original certificates collected to the state registrar and certified that no other births had occurred. In order to be able to provide for accurate data, registration districts were to be small enough for the local registrar to be expected to know personally if their records were accurate. As birth registration expanded, local registrars were also expected to test the completeness of their files against the records of clergy, postmasters, and hospital staff.

3.3 | Registration audits, c. 1913–1933

Though the core technical aspects of a standardized birth registration practice had been established by 1903, as late as 1915 only 10 states were registering at least 90% of their births. In an international address given at the end of 1915, Cressy Wilbur, who had just departed his high-level post at the Census Bureau (1918), pessimistically observed that “only about one-half of the births that occur each year in the United States are recorded” (p. 18).

One crucial element that birth registration practices lacked for that first decade was a means of reliably determining what levels of registration were being achieved. In the absence of these figures, it would be difficult to say if the rationales given on behalf of birth registration were being realized. For example, though it stands to reason that standard birth registration would have beneficial sanitary and legal effects, a lack of checks on its accuracy and exhaustiveness would have offered a convenient point of criticism for individuals and groups opposing registration for a variety of reasons. After all, if standardizing systems did not yield a significant increase in proportions of birth registration, then perhaps public resources would be better devoted to other projects promoting the regulation of health and the rule of law.

The problem of the need for measures of accountability was recognized well before a solution began to be implemented in the mid-1910s. In a 1908 publication on birth registration, the Census Bureau clearly stated the difficulty (pp. 13–14). They provided an eight-point comparison of the necessary elements for two kinds of vital records: birth registration and death registration. On all but one of the eight points the two kinds of vital events registration aligned. But there was an important asymmetry concerning the enforcement of registration. In the case of death registration, the enforcement mechanism took the form of a legal requirement that all burial permits must be signed or stamped by an official who could certify registration of death. Without such permits, sextons were disallowed from burying the decedents under their supervision. In the case of birth registration, however, there was no such mechanism that could function as a check. Without an adequate enforcement mechanism, then, it proved difficult to convince some people to register the birth of their children.

Facing these problems, officials implementing local-level registration experimented with a range of enforcement mechanisms, including penalties for delinquent physicians, penalties for registrars whose registration districts were found to contain incomplete data, and various solicitations for registration from new mothers. Where enforcement mechanisms were put in place, officials needed a way of testing the success of their incentivizing schemes. In an effort to create such a test, the Vital Statistics Office at the Census Bureau created the Birth Registration Area in 1916. The Birth Registration Area would include any state that was shown to have and maintain a registration rate of 90 percent or more of the births within its jurisdiction. States failing to achieve adequate registration often undertook a programmatic effort to diagnose why registration levels were lower and what kinds of remedies might help (Dublin, Davis, Batt, Hoffman, Haines, & Lloyd, 1928, pp. 606–608). Soon after, in early 1917, using the most recent data available from 1915, the Census Bureau (1917) published its first report on the Birth Registration Area.

What the concept of a Birth Registration Area supplied was, in the words of the Children's Bureau (1919), “a community's auditing” (p. 12). It made it possible to quantify, and thus to apprehend reliably, the success of the two technologies called for by the Model Law. It was a standardizing measure of a practice of standardization.

What were the mechanics of the birth registration audits? One mechanism that found early use at the Census Bureau (1908) involved sending canvassers house to house to discover unregistered births in hopes of securing registration at the door (p. 14). This approach, however, required tremendous resources and was dismissed as infeasible by Census officials (Census, Bureau, 1903b, p. 31). Nevertheless, it became the basis for the first successful birth registration test project, which began in 1913. The project took place not at the Census Bureau, but rather at the Children's Bureau under the leadership of Julia Lathrop, the first female director of a federal agency. By 1915 Lathrop could report that the Children's Bureau had devised a successful mechanism for a birth registration audit (p. 13).⁴ The Census Bureau then quietly transferred the audit to its control in 1917 (Marshall, 2012, p. 460).

Before the project's transfer, Lathrop coordinated the work of her agency with a countrywide volunteer base organized by the General Federation of Women's Clubs. Together they conducted a house-to-house canvass of birth

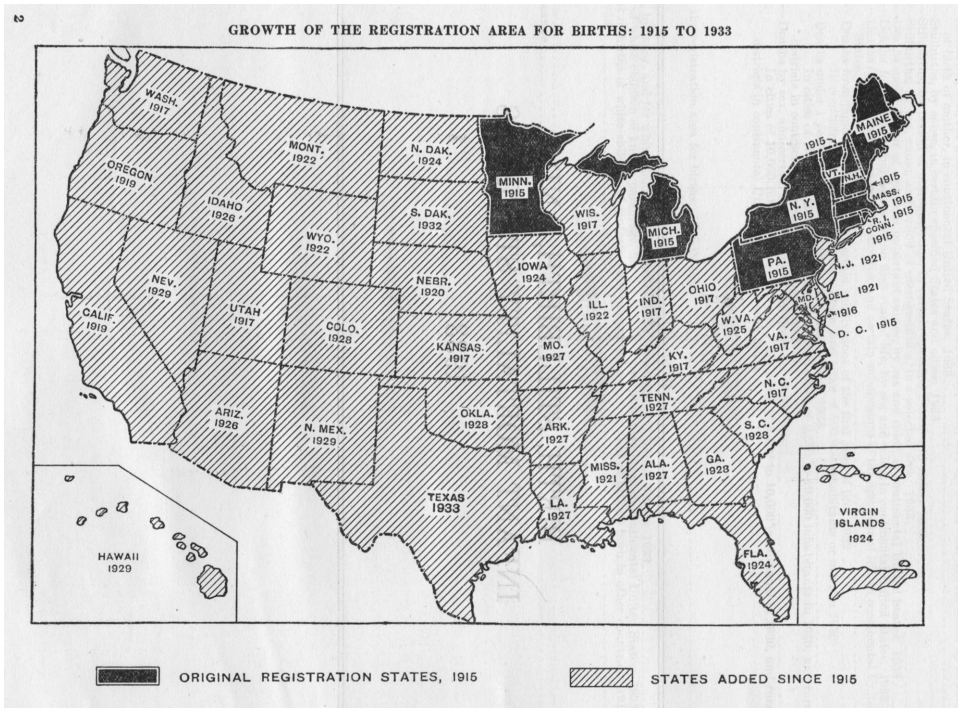


FIGURE 2 Map of birth registration growth (Census Bureau, 1936, p. 2)

registration completeness. Lathrop's *Third Annual Report of the Children's Bureau* described the mechanics of the project as follows:

Copies of the standard birth registration blank are furnished by the Bureau of the Census and the correspondence is conducted by the Children's Bureau. Members of the committees receive copies of the standard birth-certificate blank and after having carefully filled them out for a certain number of babies in their neighborhoods they then compare these records with those in the local registrar's office so as to discover in each instance whether the births have been registered and whether the record is properly filled out. The certificates are then sent to the Children's Bureau for tabulation. (Children's Bureau, 1915, p. 13; see also 1919)

The goal of this audit was not to produce actual certificates of birth, but rather to measure the rate of use of the newly emergent technologies of registration (namely, the certificates and the registration administration).

Following the introduction and uptake of the birth registration audit, a multi-organizational campaign was launched in the early 1920s to bring every US state into the Birth Registration Area by 1930. These efforts were coordinated by the American Child Health Association in conjunction with American Public Health Association and Census (Marshall, 2012, pp. 459–464). The sought-after expansion of the Birth Registration Area was soon achieved, and by 1933 all 48 states plus the territory of Hawaii had been admitted (see Figure 2).

3.4 | Completing standard registration, c. 1935

Not long after the Birth Registration Area was extended to include all 48 states, many of the organizations that championed it were restructured or dissolved. In their place new organizations were formed to maintain adequate registration. The American Child Health Association, one of the central boosters throughout the 1920s for expanding birth registration, was dissolved in 1935. Also in 1935, the Census Bureau's Division of Vital Statistics was reorganized. A 1935 report by the Joint Advisory Committee of the Director of the Census summed up the agency's new situation:

Country-wide registration furnishes comprehensive data for the first time. While it is still necessary to work for more complete and accurate recording of the facts as to births and deaths, new and intensive efforts can be devoted now to analytical treatment of the data and to the presentation of more refined results. (Cited in Austin, 1935, p. 598)

The Division of Vital Statistics was transformed from being primarily charged with the registration and collection of vital statistics to being tasked with “the improvement of data, the analysis of data, research, and the development of a highly professionalized staff” (Lunde, 1980, p. 3). In short, priorities shifted from registration of births to the analysis of registration data whose accuracy and completeness could be relied upon as all but guaranteed. Birth registration was now an “accomplished fact,” according to Dr Halbert L. Dunn (1935), the Division's new chief statistician after reorganization (p. 1321).

4 | STANDARD BIRTH REGISTRATION AS EXCHANGER BETWEEN HEALTH AND LAW

The rapid rise of an administrative apparatus for collecting and maintaining standardized birth certificates from 1903 to 1935 was retrospectively regarded by a government agency in 1950 as conditioned by a variety of factors: rapid urbanization, concomitant epidemiological anxieties, sanitary threats, and medical concerns (US Department of Health, Education, and Welfare, 1950, pp. 6–19). There were no doubt a host of other factors that official historians of previous decades were less inclined to recognize, including the context of the racialized immigration policy briefly noted above. Recent historiography dedicated explicitly to the birth certificate has begun to excavate other less obvious factors. Historian Susan Pearson (2015), in an article detailing the use of the birth certificate to regulate child labor during the Progressive Era, describes additional uses for collection of birth information: data on population growth, birth rates, and infant mortality (p. 1158). Historian Dominique Marshall (2012) describes a focus on children's rights and welfare as central elements in the registration campaigns that helped bring birth certificates to increasing numbers of Americans (pp. 461, 464).

In recognizing its work across such a multiplicity of problematics, we can begin to see how the birth certificate functioned across different modalities of power. An analysis of birth registration in terms of power can enrich existing historical scholarship insofar as this literature evinces a marked absence of concern with questions of power relations (and, in particular, with the kinds of questions that are inflected through Foucault's histories of modes of power). We suggest that attention to how sovereign power and biopower simultaneously conditioned the uptake and expansion of birth registration can help to limn the broader stakes of the emergence of this and other standardized practices. That said, our central argument here is not so much that an analytics of power helps historically explain the birth certificate, as it is that an empirical history of the birth certificate can enrich recent debates on the analytics of power, and specifically how differing modes of power come to relate in particular cases.

A view of how birth certificates set up an exchange between sovereignty and biopower is afforded by the way that birth registration advocates and administrators described the uses of birth registration. We cited above a schematic typology of the justifications for birth registration first articulated by officials at the Census Bureau. Following these justificatory invocations of sovereign projects of legal recordkeeping and biopolitical projects of public health, there was increasing usage of birth registration simultaneously across these modalities of power in ways that made possible new sovereign and biopolitical interventions.

Consider first usages of birth registration in legal contexts. Henry Bixby Hemenway (1921), a state district health officer in Illinois, emphasized the value of standardized birth certificates in terms of the legal use of these documents for evidentiary purposes (p. 1). These legal uses included “admittance to the public school,” “permission for child labor,” “establishing age,” “evidence of eligibility to civil or military office,” “proof of nationality and citizenship,” “establishing the status of individuals under the provisions of the draft,” “evidence of rights in heirship and in title to property, and in claims for pension,” and “proof of legitimacy” (Hemenway, 1921, pp. 1–3). In a 1907 letter addressed to S.N.D.

North (Director of the Census), Vespasian Warner, Commissioner of Pensions at the Bureau of Pensions, was already stressing the need of documentary evidence for establishing a person's date of birth in the administration of pension laws (Census Bureau, 1908, p. 8). Original standard birth certificates came to be regarded by the Census Bureau (1908) as essential for the "protection of the rights of the individual and of the community" (p. 7). Birth registration thus responded to needs in legal practice to verify aspects of a person's identity to secure certain rights and protections. It also thereby made possible new kinds of legal relations—not just new laws but new kinds of legal intervention. For instance, child labor legislation proposals could be taken seriously, and enacted, only in a legal context in which it was increasingly the case that laborers, and not just elites, could be assumed to be able to document their age (see Pearson, 2015).

The standard birth certificate also served an important sanitary (or public health) use in that it presented vital statistics information in uniform fashion. Cressy Wilbur, Chief Statistician for the Census's Bureau of Vital Statistics from 1906 to 1914, wrote in a 1915 report, "In order that statistics shall be thoroughly comparable, the primary schedules upon which the data are collected must be uniform. For vital statistics these are the original certificates of birth and death" (Wilbur, 1916, p. 23). Wilbur emphasized the reliance of vital statistics upon a uniform and continuous method of registration, in contrast to a series of episodic enumeration events such as a census. He argued that only through registration could vital data be satisfactorily collected because it recorded data in a constant or continuous fashion and it allowed the catalogue of data to be constantly updated (Wilbur, 1916, pp. 8–9). Vital statistics based on accurate registration in turn contributed to all manner of public health projects, perhaps most notably the mitigation of infant mortality. The Census Bureau's annual series of infant natality and mortality statistics inaugurated in 1915 was one primary source of data derived from birth registration that would prove crucial to all manner of new biopolitical interventions in infant health (see Census Bureau, 1917).

These analyses show that birth registration emerged as simultaneously deployed within pre-eminent practices expressive of sovereign power and biopower. Birth registration throughout this period became increasingly enlisted in projects of biopolitical public health and causes of sovereign identification of legal rights and privileges in ways that would increasingly alter both practices.⁵ This observed, it is important that registration had not always functioned as such a site of articulation between public health and legal records. Rather, birth registration came to function as an exchanger during the first decades of the 20th century.

In the very midst of this transition, many observers sought to locate registration in one or the other of these contexts even as it reached both. To some, the biopolitical uses of registration were more prevalent than its legal function. Frederick L. Siddons noted in 1907, "The sanitary uses of vital statistics have quite overshadowed their importance as legal records" (Census Bureau, 1908, p. 7). There is no small amount of historical irony here, in part because registration was at first thoroughly invested by practices of legal recordkeeping. A 1908 Census Bureau publication stated the relevant terms of historical sequence:

Modern sanitation itself is a child of vital statistics, and the beginning of national registration of births and deaths in England in 1836 marked the commencement of the "sanitary era" in which we live and which is yearly witnessing greater triumphs in the conquest of disease. Nevertheless, the registration of vital statistics was not primarily instituted for purposes of public health: but to secure proper records of the vital events of human life for legal purposes. (p. 8)

The use of registration data for legal records in the US extends back to the colonial period (see Balfe, 1918, p. 777, Gutman, 1958, p. 61). Public health and demographic uses of birth registration began only in the 19th century with the 1836 Sanitation Act and 1837 Registration Law in England and Wales, moving across the Atlantic later in the century. As Wilbur noted in 1916, the "development of vital statistics as an essential part of political knowledge and more especially as the corner stone [sic] of public health administration was not to appear until the nineteenth century was well advanced" (p. 8).

The earliest articulations of birth registration to both public health and legal records in the first two decades of the 20th century quickened with the development of the Birth Registration Area and its expansion. Campaigns for the Birth Registration Area in the 1920s enlisted both public health and legal record-keeping concerns to justify increased

registration. This kind of exchange across contexts during the 1920s campaigns is evident even though the key boosters for the Birth Registration Area were mostly public health and demography organizations: Census, American Public Health Association, and an American Child Health Association presided over by Herbert Hoover, who soon left that post to become president of the US.

The efforts of multiple organizations to promote the expansion and completion of the Birth Registration Area include the American Child Health Association's annual *Statistical Report of Infant Mortality*. These reports included data on infant mortality from both its own collection efforts as well as from the Census Vital Statistics Division, aggregated and sorted by municipality, with the intent to foster competition among municipalities to enter the Birth Registration Area. Additionally, these reports presented data in the form of both in-text tables and posters to place on display. These posters generally included a bar graph depicting the progress of municipalities' birth registration efforts in order, from the largest birth registration rates to the least, as well as text to give readers the rationale for registration. One example of such a rationale, from the 1920 American Child Health Association poster, reads as follows:

The quickest and easiest way to reduce a high infant mortality rate recorded against your city is to demand registration of every birth, as required by law. It is also the only fair deal for the baby. His citizenship, his right to go to work and to inherit property, may depend on his birth having been registered. What about your baby's?

This extract, intended for consumption by a public of passers-by, neatly condenses both the legal-sovereign (rights to work, property inheritance) and biopolitical (infant mortality) practices in which birth registration traveled.

By the late 1930s, birth registration was increasingly enrolled in a vast panoply of organizations. Consider just one, also at the interface of biopower and sovereignty: the Social Security Board (today known as the Social Security Administration). The administrators of the Social Security programs established by Congress in 1935 immediately recognized the need to incorporate birth and death statistics into the calculations of the Bureau for Old Age Insurance (Clague, 1938, pp. 599–600). With respect to legal records permitting the drawing of social security entitlements, it was deemed that the ideal proof of status was a birth certificate even though many applicants at the program's inception would not yet be able to produce certified birth records (Smith & Falk, 1939, pp. 452–457). This and other emergent social welfare programs put pressure on the Census Bureau's Division of Vital Statistics to fix problems with data collection, format inconsistencies, and information delivery (Lunde, 1980, pp. 2–5). Subsequent developments continued to institutionalize and extend the kinds of biopolitical and sovereign work that can be performed on the basis of birth registration.

5 | CONCLUSION

The empirico-historical account of birth registration developed here details one way in which operations of biopower and sovereign power have been stitched together. Birth registration is a contact point between sovereignty and biopower, but without determining their relationship in general. Rather than tracking historical movement in terms of the epochal transformation from one structure of power to the next, the analysis of an exchanger draws attention to sites where practices expressive of different modes of power come into contact with one another, leaning on each other for support through mutual reinforcement. This shows how differing modalities of power can be configured through at first fragile and later robust points of contact, a configuration whose maintenance must always and continuously be paid for in labors of practice. We have here tracked this contact as it manifested between biopower and sovereign power, but there is no reason to assume that these were the only shapes of power with which birth registration came into contact. In related work, one of us explores the role of the birth certificate as a document whose emergence indexes the layered birth of a politics of information, or what might be called, after Foucault, "infopower" (Koopman, in press).

Our empirical perspective on birth certificates as a power exchanger concurs with Deutscher's (2017) argument that "it becomes a decisive point for Foucault that the seemingly similar techniques that might otherwise be grouped together ... can be tactically differentiated" (p. 22). Wherever they are made to function, birth certificates look the same: indeed, that was the very point of their standardization. Yet the political tactics in which they are caught up can

be quite different, serving biopolitical public health in one instance and the rule of law in another. Given such variations in the deployment of a standard, what is of interest is the already-implied reversal of Deutscher's argument: the ways in which tactically different operations of power can come to rely on the very same standardized technologies as their mutual site of enactment. Exchangers thus appear as particularly excited nodes within networks of power.

Points of interchange between multiple layers of power ultimately matter only insofar as these past exchanges remain with us in the present. Our case here concerns a past whose present is one in which the American birth certificate has become a breeder document from which nearly every other piece of American documentary identity gets produced. The birth certificate today functions thereby as foundational for multiple aspects of our identity: not only legal identities of citizenship and rights (see Szreter, 2007) but also social aspects of identity such as race, gender, and sexuality (see Currah & Moore, 2015). The birth certificate is today the base upon which the ever-expanding pyramid of our identity documentation rests. In functioning as such, the birth certificate is a crucial biopolitical-and-sovereign technology for shaping numerous aspects of who we are and who we can become. The particular history of this particular technology, including the particular sites of exchange it has set up between sovereignty and biopower, thus matters much in the context of a political philosophy of contemporary powers.

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NOTES

- ¹ Evidence for Collier's claim about the earlier work can be found in Foucault's references to "the disciplinary society" (Foucault, 1995, p. 209) and to "an era of biopower" (Foucault, 1990, p. 140).
- ² Briefly, the problem Foucault sought to address was the following: in order to bring the sovereign's right to kill into the realm of a biopolitical apparatus committed to the enhancement of life, there must be a mechanism for folding the former into the latter. On Foucault's rather controversial analysis (which we neither endorse nor disprove), racism offered such a mechanism.
- ³ Including the citations in the paragraph above and the remainder of this paragraph, the following is an exhaustive (to our knowledge) list of Foucault's uses of *échangeur* as a substantive category of analysis: (1990, p. 108; 1994a, pp. 110, 155, 462; 1994b, p. 108; 1995, pp. 187, 206; 2004, pp. 33, 35, 161; 2008a, p. 260; 2008b, p. 83; 2009, pp. 215–216; 2015, pp. 34, 36–37, 54, 131, 160.
- ⁴ Lathrop specifically reported 222 all-volunteer committees working in 24 states (exactly half) recording 12,865 babies of whom 3,415 were previously unregistered.
- ⁵ In observing how birth registration transformed these practices, it is not our claim that birth registration thereby transformed the very nature of these modes of power. Rather, our argument is that birth registration served to establish a point of connection or exchange between specific implementations of those modes of power, thereby transforming these (and other) implementations.

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