IDENTIFICATION SYSTEMS DON'T ALWAYS SERVE THE BOTTOM 40%

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INTRODUCTION

Over 150 countries maintain mandatory civil registration systems. The number and variety of registration and identification systems has increased with the rise of the Internet (World Bank 2015). The functionality of these systems has also expanded over this time period, with delivery mechanisms for services and benefits increasingly tied to registration. Attracted by the promise of new technology, countries and development partners alike have invested heavily in identification systems, in terms of both development dollars and strategy. Regarding strategy, identification systems have found their way onto no less preeminent a platform than the Post-2015 Sustainable Development Goals, which include the proposed target, “[b]y 2030, provide legal identity for all, including birth registration,” under the broader goal of peaceful and inclusive societies.

This article will explore the prospects, challenges and risks of pinning inclusive development outcomes on identification systems. Much of the current discourse on identification- and registry-related issues is framed from a state-centered perspective; that is, improving the functioning of government agencies and enhancing the collection of data for planning and policy. We suggest complementing this with a stronger focus on the impacts of identification systems on the poorest and most marginalized. In many circumstances, identification systems risk not serving the development needs of such people. In developing global and country-specific identification strategies, there is a need to more clearly and critically articulate the implied benefits, costs and risks of alternative approaches.

To this end, identification systems dialogue and practice can be enhanced by:

i. Being clearer about the difference between the terms ‘identity’, ‘registration’ and ‘documentation’;

Rigorous evidence on the link between registration / documentation and development outcomes is limited and mixed.

Making basic services (e.g. health and education) conditional on registration and/ or documentation may increase exclusion.

We need to disentangle the terms ‘identity’, ‘registration’ and ‘documentation’ to properly understand the development problems we are seeking to address – and the pathways to achieve them.

3 And practice, including support to civil registration and vital statistics systems, digital IDs and authentication to support improved financial access.
ii. Focusing on the development problems that identification systems seek to address rather than just the technical solutions (and being humble about the current the lack of strong evidence in favor of development outcomes in many circumstances); and

iii. Understanding – somewhat counterintuitively – that identification systems can result in increased exclusion for the poor and marginalized, particularly if the underlying legal, social and political contexts aren’t properly analyzed.

1. DISENTANGLING ‘IDENTITY’, ‘REGISTRATION’ AND ‘DOCUMENTATION’

The policy and operational dialogue around identification systems regularly conflates several important concepts, including ‘identity’, ‘registration’ and ‘documentation’/‘certification’.

Legal Identity is a status that people and organizations (e.g. corporations, NGOs, etc.) have based on their characteristics. Legal identity ascribes to them rights and duties. Legal identity emerges from different legal sources including international and national law. The Universal Declaration of Human Rights recognizes that all people are born with rights (Article 1) and goes on to catalogue many aspects that comprise a person’s legal identity. Often overlooked in identification discussions (but critical from a rights perspective) is that legal identity exists whether or not it is registered (or further, documentation exists for such registration). A legal identity, when recognized by the state, can enhance a person’s ability to enjoy the state’s protection, to enforce his or her rights and to demand redress within the state by accessing courts and other law enforcement organizations (Vandenabeele as cited in Bhabha 2011). But, many aspects of one’s legal identity don’t require registration. For example, in many jurisdictions a person who is arrested on suspicion of committing a crime has rights that attach to their identity as a criminal suspect (for example, the right to remain silent). These rights are inherent to them being a person (and a suspect) and are not contingent upon any formal registration (or documentation).

People also have multiple legal identities. Depending on the factual circumstances, an individual person can have the identity of ‘citizen’; ‘resident’; ‘spouse’; ‘voter’; ‘driver’; ‘eligible claimant for services/benefits’, amongst many others. Each of these identities can be used to further different development outcomes. In supporting the development of legal identity systems the Bank and other development partners will most likely be choosing to further some identities and not others and the trade-offs involved in these choices need to be carefully weighed. An understanding that legal identity exists in many forms encourages us to first ask which legal identity/ies we are seeking to further and for what developmental ends. If the most pressing development problem is lack of access to education, then one must first ask what contributes to this? If the identification of proper students is part of the problem of education access (which may not be the case in many circumstances) then what type of identification would best serve the students’ needs?

Registration (including “civil registration”) refers to the systems and processes by which a state (or other authority) recognizes and records certain aspects of an individual or organization’s identity. Registration systems may be broad-based (“foundational”), such a national ID cards in some countries, or deployed for particular purposes (“functional”), for instance taxpayers or social security.

As there are multiple legal identities, one register (and associated document) will likely not cover all dimensions, and indeed, in almost all countries multiple registration systems exist. This is even the case in countries that have a ‘primary’ legal identity (such as a national ID card). It follows that a single registry system is not necessarily a prerequisite to development, and some developed countries (such as the United States, United Kingdom and Australia) have made conscious choices not to have a national ID system.

Documentation (or certification) refers to the mobile proof of registration which traditionally has taken a paper form (a certificate) but in some circumstances may now be electronic. This proof of registration facilitates the holder in asserting their legal identity/ies in different locations. The documentation may also be a requirement for a person to access essential services, gain employment, vote, transfer property, drive a car or open a bank account (World Bank 2014). It is important to keep conceptually

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4 The focus of this note is on personal identity.
5 When used herein, the term “identification,” in contrast to the term “identity,” will typically refer to the state process of discerning and officially recognizing legal identity – often, but not necessarily, by way of registration.
6 It is, in this sense, very different than system- and function-oriented uses of the term identity (e.g., “biometric identity”).
distinct documentation and registration. The two may be processed differently, or be utilized differently legally or programmatically. The distinction and its implications are highlighted in global birth data: as recently as 2012, the births of 230 million children under five went unregistered. In that same cohort, 70 million registered births went undocumented (Dunning, Gelb and Raghavan 2014).

The differences between identity (as a rights-based concept), registration (an instrumental system for recognizing such rights) and documentation (proof as a system instrument) become more pronounced when considering how identity and registration serve cross-cutting development objectives. Legal identity is the source of an individual’s standing, and their claim for inclusion and access. Registration, on the other hand, can improve a system’s ability to deliver services to identified claimants, but is not always premised on inclusion. This conceptual clarity has important programmatic and welfare consequences, but is frequently overlooked.\(^7\)

2. IDENTIFICATION SYSTEMS CAN INCORPORATE EXCLUSION AND DISCRIMINATION

In China, migrant workers, registered in their place of birth, are unable to register in their place of employment and therefore are unable to access health care and other rights.\(^8\) Nubian children born in Kenya are less likely to have their births registered (and enjoy associated educational rights) owing to stringent requirements and discretionary implementation.\(^9\)

Strengthening identification systems can lead to a number of perverse consequences that undermine development gains. Registry systems may result in exclusion when underlying systems refuse, or pose inequitable burdens on, the recognition of certain identities. Exclusion can also come from refusing rights to those who legally might be entitled but haven’t surmounted the bureaucratic steps to get registered. Lastly, it may arise from information disclosure in documents and systems.

2.1 EXCLUSION FROM REGISTRATION SYSTEMS AND DISCRIMINATION ON THE BASIS OF LAW

Rights and statuses comprising legal identity are to a large degree determined by underlying law, which may be exclusionary or discriminatory \(\text{prima facie}\), or may interact with registry systems to produce such a result. Minimizing the risks posed by registration and documentation requires going beyond the immediate systems to understand the broader legal framework and how it operates in the existing social and political context. The promotion of identification systems cannot be discussed without also interrogating the laws that convey or deny rights. One of the most basic rights is citizenship.

In Myanmar, authorities view Islamic Rohingya as illegal immigrants despite many having lived in the Buddhist-majority country for generations. Around 800,000 stateless Rohingya living in Myanmar are denied citizenship rights and face severe restrictions on marriage, employment, health care and education. The Malaysian government also refuses to give legal status to Rohingya people.

In China, Heihaizi (black children) born in violation of the one child policy are not able to provide proof of birth registration in support of an application for normalized status, newly required under a 2014 law. Out of an estimated 110,000 such people who would qualify for citizenship under the law’s terms, just one month prior to the deadline, only 5,345 people had applied (Amnesty International 2015).

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\(^7\) In this regard, contemporary institutional definitions fall short. The formulation of proposed SDG target 16.9, as previously noted, suggests that legal identity “include[s]” birth registration. The Inter-American Development Bank’s Civil Registration and Identification Glossary (2010) defines legal identity as “legal civil status obtained through birth registration and civil identification that recognizes the individual as a subject of law and protection of the state.” In fact, the rights and status bound up in legal identity are not inherently conditioned on registration (and not birth registration in particular).

\(^8\) In Shenzhen and other large Chinese cities at the height of the AIDS pandemic, rural to urban migrants unable to secure urban hukou were treated as “biological non-citizens” (Mason 2011) and ineligible for health care, contributing to the transmission and spread of the virus both within and outside of migrant communities (Todrys and Amon 2009).

Whether or not a person is considered a citizen is determined by law. In some countries, as a matter of law, a child can only be registered by their father. In these countries, a woman who is not married, or is married to a non-national (or if the father refuses to acknowledge paternity) may be unable to register her child as a citizen. Identification systems can concretize the underlying legal (and social) frameworks. Development partners supporting the strengthening of identification systems need to rigorously assess these underlying frameworks, or risk inadvertently undermining the development prospects of certain populations.

2.2 EXCLUSION FROM SERVICES AND DISCRIMINATION IN THE ABSENCE OF DOCUMENTATION

The push for enhanced identification systems is often accompanied by new rules mandating registration to access basic entitlements (including health and education). This risks excluding vulnerable populations from essential services. One motivation for tying services to registration is to make large-scale service delivery more manageable, and less subject to abuse; another is to incentivize people to get registered. For example, in Kenya, a policy was introduced requiring students to provide birth certificates in order to sit exams, as a means of increasing the number of children with documentation. The result was reports of children being prevented from accessing education. Furthermore, those that can’t register or obtain documents are likely to be the same people who currently have trouble accessing basic rights and essential services: the impoverished and marginalized populations that make up a central focus of the World Bank’s mission.

There are any number of reasons why citizens may not possess documentation. Citizen distrust is one. Exclusion from registry systems – whether due to discrimination or otherwise – is another. Administration and informal fees can pose a prohibitive financial barrier to participation. Residents of remote rural areas may have difficulty physically accessing or contacting intake centers. Complex procedures, or inconsistent information, may also preclude participation. Mundane reasons, such as an inability to replace lost, stolen or damaged documents, contribute as well. There is also the practical question of supply: in some instances where governments and/or NGOs have advocated to increase the number of people with identity documents, under-resourced government departments have been unable to sufficiently respond to increased demand, resulting in significant backlogs (UNICEF 2010; EU/Miller 2007). Elsewhere, poorly kept and/or inaccessible records can preclude registration, and in particular frustrate digitizing a system.

In Indonesia, possession of birth certificates varies considerably with household income: 46% of children in the poorest quintile of families do not have a birth certificate, compared to 10.6% in the richest quintile (AIPJ 2014). There is no significant difference between girls and boys, but the percentage of children without certificates in rural areas is double that in urban areas, and children are less likely to have a certificate if they are disabled or if their parents and grandparents did not have a birth certificate.

In Vietnam, parents who have children in violation of the two-child policy often will not register those children with authorities because they fear being questioned or discriminated against.

Whatever the reason, for the foreseeable future, registration and documentation systems are unlikely to achieve universal population coverage. A push for universalization focusing on registering new births alone will exclude children and adults who have not had their births registered – there are currently 750 million people under sixteen years of age without birth registration (Dunning, Gelb and Raghavan 2014). Under these conditions, a push for universal birth registration, when coupled with conditioning access to services on documentation, is likely to intensify exclusion from basic rights and essential services. Where governments tie more and more basic functions and responsibilities to
such systems (including with development partner support) they risk entrenching an underclass.

In Vietnam, access to social services is closely linked to civil registration. This has exposed non-registered individuals, particularly from migrant families, to “multiple institutionalised vulnerabilities and risks” (CSP 2011). Seventy percent of spontaneous migrants who approached employers in the formal sector were rejected because they did not have hokhau (household registration) in the city, leaving the vast majority of migrant workers in precarious and temporary jobs (CSP 2011).

In the United States, courts up to and including the Supreme Court have found that a number of state laws requiring individuals to show voter identification documents before voting had the effect of disenfranchising low-income and ethnic minority voters and contravened both the 1965 Voting Rights Act and Constitution.

### 2.3 DOCUMENTATION ITSELF AS GROUNDS FOR EXCLUSION

Even once registered and in possession of documentation, individuals face the risk that information contained in documents (or underlying registries) may be used for discriminatory ends (WHO, 2014). Registers and accompanying documentation may designate nationality, ethnicity, race, religion, place of birth and other special statuses (Fussell, 2001). Going back in time, ethnic classification on identity cards in Rwanda (first instituted by the Belgian Colonial Government) and the introduction of the “J stamp” on identity cards of Jewish Germans are some of the most notorious reminders of how documentation may expose individuals to discrimination – and worse.

Today, identity documents continue (however less insidiously) to contain information that may be used for discriminatory purposes. Identification cards highlighting non-indigenous origin may facilitate employment discrimination, such as in the case of Ethiopian identity cards highlighting the Eritrean “previous nationality” of Ethiopian citizens (Refugees International, 2008). Even more innocuous cases in which a person must provide documentation revealing his or her age to a potential employer, or service provider, can affect the person’s treatment. Owing to such risks, there is a need to consider whether the collection and disclosure of personal information inherent in registration and documentation systems such as these is narrowly tailored to a clearly defined development end.

### 3. SURVEILLANCE AND DATA INTRUSION

Another risk of expanding registration systems is that governments, authorized third parties or unauthorized individuals may use them for surveillance, private data harvesting or other functions (illicit and licit alike) violating individual rights. Increased collection of personal data also risks implicit or explicit “function creep,” where data collected for one purpose is gradually used for others to which the individual has not consented (World Bank, 2014).

Whereas the U.S. once assured citizens in the 1930s that social security numbers would only be used to track eligibility and contributions, these numbers are now used for a wide range of purposes by public and private entities. Just as concerning are security breaches and unauthorized intrusions on private data. These concerns, and the potential for harm, are heightened by the so-called “aggregation effect.” In combination, otherwise innocuous information may paint a portrait of personalities, activities and individual attributes, greatly increasing an individual’s vulnerability to dangers such as targeted discrimination (both public and private), intrusive surveillance, identity fraud, stalking or harassment.

The private aggregation of a range of public and private data has been used to deny or limit the provision of health services to the most needy in private insurance-based systems. Elsewhere, police and civil liberties groups debate the constitutionality of facial recognition programs, relying on passport and driver’s license photos, used in non-consensual public video surveillance.

Particularly where trust between citizens and the state is weak, this may seriously curtail the ability of...
the government to promote the use of civil registers. Citizens “opting out” – withholding information or intentionally misrepresenting information – may further undermine the ability of the registry systems to deliver on their development promise. More broadly, citizen fears and suspicions when confronted with the unchecked expansion of such systems may undermine a country’s social and governance compacts.

In designing and supporting the strengthening of such systems, steps must be taken to mitigate these risks and to safeguard personal information. Due diligence is an essential process for understanding and addressing the interaction of an identification scheme with a country’s broader legal-regulatory framework. Can police resort to biometric registry data in lieu of observing due process in criminal investigations? Might registration unintentionally entrench and/or amplify discriminatory effects of previously-unconsidered statutes, regulation or jurisprudence?

4. EVIDENCE OF THE DEVELOPMENT BENEFITS OF IDENTIFICATION IS INCONCLUSIVE

Identification systems are costly in the financial sense (with some budgets in the hundreds of millions of dollars), but also in terms of foregone investments and, as discussed above, significant risks. These opportunity costs stress the importance of understanding, for balancing purposes, the nature and likelihood of realizing identification’s benefits. Limited robust evidence of the development impacts of identification systems makes this balancing more difficult, and the justification for investment more tenuous.

Proponents of identification systems often ascribe two main instrumental benefits:

Registration as a means of targeting public and private sector benefits. This is the core argument underpinning many identification activities: that registration enhances access by (i) allowing governments to expand the reach and efficiency of their programs; and (ii) providing documentary proof of the validity of a claimant for an entitlement or service. Registration, for example, enables the Pakistani Government to institute a cash-for-recovery transfer system in response to flooding and provides eligible citizens with proof of right to their payment, overcoming the myriad factors that would otherwise hinder their ability to collect.

The benefits of identification systems are perhaps most clearly established in the realm of anti-poverty cash-transfers. For instance, a large-scale randomized control trial on the use of “smartcards” in the Indian state of Andhra Pradesh found that smartcards delivered faster, more predictable and less corrupt payment processes for beneficiaries without adversely affecting program access (Muralidharan et al, 2014). Outside of social protection programming, the evidence is limited and even proponents of identification systems acknowledge the need for more rigorous empirical evaluation (e.g. Gelb and Clark, 2013). Several pieces of research present a more mixed perspective about registration and documentation’s overall effect. Research undertaken in Bangladesh, Cambodia, and Nepal (Asian Development Bank, 2007) examined the impact of documentation programs by comparing the quality of life of people with formal identity documents to others in similar circumstances without them. The research found that the impact of increasing the number of people with legal identity documents was often speculative and remote. Further research in India, Kenya, Sierra Leone and Vietnam (Plan International, 2014) also found that the relationship between birth registration and access to services was complex and context specific.

Augmenting and enhancing statistical data for policy and planning purposes. Civil registration can generate valuable demographic statistics to inform policy, planning and delivery processes (Asian Development Bank 2007). These systems can provide information on anything from where people live to important health and vital statistics, but the benefit of such data is linked to the completeness and functionality of the underlying registration system.

Birth registration is the most common process through which states record (key aspects of people’s) legal identity, yet only 54 percent of countries report complete coverage for births and 52 percent for deaths for the period 1995-2004 (Wallman and Evinger 2006). Current data highlights the coverage gap further. The total population of the 152 countries using mandatory birth and civil registration systems is 5.9 billion people, yet almost 1.5 billion people (about 25% of the population) are unregistered (World Bank, forthcoming). It is fair to say that in most developing countries, registration has not yet reached a level of universality, accuracy

13 The data is particularly striking in low income countries: in Ethiopia and Somalia, birth registration systems capture only 6.6% and 3% of births, respectively.
and reliability to be used for planning purposes (Plan International, 2014). As registration among certain populations such as minority ethnic groups, the rural poor and the LGBT community can be significantly lower than national averages (Ladner et al, 2014), using registration data for development planning may lead to further exclusion of already vulnerable groups.

Proponents also raise non-instrumental arguments related to empowerment, which warrant mention, but also raise their own type of evidentiary challenges. Perception surveys highlight the intrinsic value of having one’s legal identity recognized and affirmed by tangible documentation, especially in those populations historically marginalized by the state (Commission on Legal Empowerment, 2008). This is complemented by the value of empowering individuals to assert and protect their rights. The challenge here is how to measure impacts other than through perception surveys and capture impacts more comprehensively. It is difficult, for example, to untangle the countervailing effects of presenting documentation to protect rights versus effective implementation and enforcement of applicable law versus the risks of individual rights being deprived on the basis of one’s failure to present documentation (Plan International, 2014).

In sum, the existing evidence interrogating the link between registration, documentation and inclusive development reveals both complexity and uncertainty. While new evidence is emerging, there is an overarching need to invest in filling continuing evidentiary gaps. There is a real risk, reputational and substantive, in “over-selling” the development benefits of identification systems (especially the ones related to service delivery) until such time as the evidence speaks more clearly.

14 The World Bank and WHO have developed a Global Civil Registration and Vital Statistics Scaling Up Investment Plan with the goal of universal civil registration of births, deaths, marriages, and other vital events, including reporting cause of death, and access to legal proof of registration for all individuals by 2030. The cost of bridging the gap in the 73 low and middle income countries plan countries is estimated at US$2.3bn (2014). This is an important initiative, but until it is more fully realized, pragmatism is in order in tempering expectations as to the value of registry-generated data. In the absence of reliable registry data, alternative data sources including household/population surveys have proven effective tools for monitoring certain demographic indicators and trends (including birth registration, UNICEF 2005), without the additional costs attendant to instituting comprehensive civil registries.

CONCLUSION: MAXIMIZING DEVELOPMENT BENEFITS FROM IDENTIFICATION

Whilst identification systems can be an important contributor to development, they can also increase exclusion for certain populations, especially those already most vulnerable and marginalized. These concerns highlight the need for greater diligence in assessing the benefits and costs of identification alternatives in any given context. The functionality and impact of identification systems rest on the functioning of a series of other institutions — law, agencies, and archives, just to name a few. Having a more thorough understanding of the interplay between these institutions can yield as much if not more than spending on cutting-edge technology. This is especially true in fragile and low-income states where tech literacy is low and access to power and internet connectivity are unreliable.

Beyond this initial diligence, the analysis suggests several other principles to enhance the development impacts of identification programs:

- Be clear about the particular development outcomes that an enhanced identification system seeks to address — and ensure that impact evaluations are undertaken to understand whether such benefits accrue (as well as any perverse outcomes).
- Beginning with a political analysis of the legal framework and its application, forecast the likely impacts of enhanced identification systems on the poorest and most marginalized — and establish measures to include those most likely to be left out, as well as left worse off.
- Seriously weigh risks of exclusion if considering mandatory requirements for registration and documentation to access essential services (such as health and education).
- Ensure that grievance redress systems (and legal advice for using such systems) are in place to challenge cases when registration is improperly denied, lack of registration/documentation is used egregiously to deny or limit basic services, or registration data is used inappropriately.
- Supplement registration data with population/household data to ensure that planning and policy doesn’t “doubly exclude” by overlooking the needs of those who haven’t been able to get registered.
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