Civil Registration, Human Rights, and Social Protection in Asia and the Pacific

Abstract

In this paper, the impacts of civil registration are examined as they relate to the realization of human rights and access to social protection, using examples from countries in the Asian and Pacific region.

In the paper, it is claimed that civil registration and vital statistics systems are essential to the realization of human rights and the ability of individuals to access basic social protection services. It is also claimed that individuals should not be denied access to such rights and services as health and education on the basis that they are not registered. At the same time, it is acknowledged that legal identity realized through civil registration may be used equally by Governments to define who is entitled to rights and services and who is excluded. It was found that the relationship between civil registration, the realization of rights and access to services is largely dependent on context.

The paper contains recommendations that legislation on civil registration be universal in scope and that it facilitate the registration of vital events of all individuals, regardless of their situation. Further recommendations include the simplification of registration procedures, outreach activities for remote and mobile populations and building social considerations into programme design to increase the coverage and effectiveness of civil registration.

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Introduction

Civil registration – the administrative recording of vital events, such as births, deaths, adoptions and marital status of individuals – has profound implications for development and the realization of human rights. At the individual level, birth registration is the basis for the provision of official certificates that establish a person’s legal identity, a key requirement in modern States for the realization of people’s rights and the provision of public services.

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In spite of its importance, in the Asia-Pacific region only 44 per cent of children under age 5 are registered. As of 2013, 135 million children younger than age 5 in Asia and the Pacific had not had their birth registered, and in some South Asian countries, birth registration rates are lower than 27 per cent (UNICEF, 2013). Data on death registration are scarce, but it is known that South-East Asia and sub-Saharan Africa have the highest number of uncounted deaths (WHO, 2012). In India, about 67 per cent of all deaths are registered (Abouzahr and others, 2014a). In Indonesia, in the poorest 30 per cent of households, 55 per cent of couples do not have a marriage certificate (Australia Department of Foreign Affairs and Trade, 2014). Registration coverage rates for other vital events, such as adoption and divorce, rarely exist.

It is argued in this article that civil registration and vital statistics systems are essential to the realization of human rights and the ability to access basic social protection, as evidenced by country examples in Asia and the Pacific. At the same time, it is claimed in this article that legal identity realized through civil registration may be used equally by Governments to define who is entitled to rights and services and who is excluded. The relationship between civil registration, the realization of rights and access to services was found not to be inherent but dependent on context (Apland and others, 2014).

The present article is focused predominantly on the impacts of civil registration at the individual level, with some explanations of the benefits of population registers for the implementation of social policies. The benefits of civil registration for development and society as a whole are explored in greater detail in the first article of the present issue of the journal, entitled “A development imperative: civil registration and vital statistics systems in the Asia-Pacific region” (Abouzahr and others, 2014b).

The scope and role of legal identity

Different studies explored in the following paragraphs have examined legal identity in varying national contexts and its role in development and in facilitating the realization of the human rights of individuals. In those studies, different facets of the relationship between civil registration, the provision of legal documentation, legal identity and access to social protection have been identified but a uniform definition of the concept of legal identity has not been employed.

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2 For the purpose of the present article, social protection is defined using the International Labour Organization definition of the social protection floor, that is, encompassing access to basic education and health services, and basic income security for children, individuals of working age unable to earn sufficient income and older persons (International Labour Organization, 2012).
While bearing in mind this absence of a universally accepted and applied definition, legal identity may be defined as the recognition of a person’s existence before the law, facilitating the realization of specific rights and corresponding duties. Legal identity, evidenced by legal documentation that is produced on the basis of the registration of vital events, can encompass such characteristics as name, age, place of birth, address, sex, gender, marital status, nationality and, depending on the national context, these are sometimes linked to a personal identification number or/and identity card. This article is focused on the recognition and realization of legal identity in legally accepted documents establishing such individual characteristics.

Legal identity is also guaranteed by a number of provisions of international law to which member States have committed. Under the Universal Declaration on Human Rights, it is recognized that everyone has the right to be recognized before the law, and that all are equal before the law and are entitled without any discrimination to equal protection of the law. Widely ratified international human rights treaties require States parties to register every child immediately after birth. The Convention on the Rights of the Child also guarantees the child’s right to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference. If a child is illegally deprived of some or all of the elements of his or her identity, States parties are mandated to provide assistance and protection with a view to re-establishing speedily his or her identity.

International human rights bodies continue to promote the realization of these rights. In 2012, the United Nations Human Rights Council adopted a resolution entitled “Birth registration and the right of everyone to recognition everywhere as a person before the law”. This resolution includes a call to States to “identify and remove physical, administrative, procedural and any other barriers that impede access to birth registration, and to pay attention to barriers relating to poverty, disability, gender, nationality, displacement, statelessness, illiteracy and detention contexts, and to persons in vulnerable situations”.

In addition, securing an individual’s legal identity is being increasingly considered an imperative for development. In the report of the High-level Panel of Eminent Persons on the Post-2015 Development Agenda, entitled *A New Global Partnership: Eradicate Poverty and Transform Economies through Sustainable Development*, the following was noted:

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3 See General Assembly resolution 217A(III).
Government is responsible for maintaining many of society’s central institutions. One of the most basic institutional responsibilities is providing legal identity. Every year, about 50 million births are not registered anywhere, so these children do not have a legal identity. That condemn them to anonymity, and often to being marginalized, because simple activities – from opening a bank account to attending a good school – often require a legal identity.

As a result, it was recommended that States should adopt a goal to provide free and universal legal identity, such as birth registrations, as part of ensuring good governance and effective institutions (United Nations, 2013).

In a recent large-scale survey in Indonesia the extent to which individuals held birth certificates and other forms of legal identity documentation was examined as well as the impact this situation had on their lives. A number of key conclusions were drawn. First of all, guaranteeing people’s access to legal identity through civil registration and documentation is not only essential in order to comply with human rights principles, but it is also a fundamental aspect of good governance and inclusive development. Second, for the poor and the marginalized, for women and children and for persons with disabilities, birth, marriage and divorce certificates play a critical role in their ability to access education, health services, social assistance programmes and legal protection. Finally, it was concluded that legal identity goes beyond providing people with a piece of paper. Birth, marriage and divorce certificates are a critical part of a modern civil registration and statistics system (Australia Department of Foreign Affairs and Trade, 2014).

Persons are considered “undocumented” when they lack the ability to exercise their full rights (protection before the law and social, economic and cultural rights) or to fulfill their duties, such as voting or paying taxes, because they cannot prove their identity. Lack of legal identity can take at least two forms: (a) absolute, which is the case when the person’s birth has not been registered, and therefore that person has no birth certificate or identity document; or (b) relative, where the person’s birth had been registered but he or she has lost the registration document or did not receive it due to a registration error, and thus never obtained a national identity document (Harbitz and Tamargo, 2009). The failure to register births in a timely fashion is the precursor to problems related to lack of legal identity in adulthood. Within certain national contexts, legal identity can, however, be obtained through other means and forms of proof (Apland and others, 2014). For example, in India, “ration cards”, “caste certification” and voter identification cards (IDs) may be used as alternative means of documentation (Apland and others, 2014).
There are different official procedures and requirements for registration and obtaining legal documents across the region. For instance, who is empowered to register an event, timelines, fees, registration access points and documentary requirements vary from country to country – sometimes within countries – and by type of identity document. National systems built around identity management exist in a wide variety of forms across the Asia-Pacific region. Identity management systems are not, however, always linked with civil registration, as these often fall under the responsibility of different government departments.

In a previous multi-country study of States in Asia it was concluded that, while civil registration and the legal documents produced as a result thereof play a key role in the allocation of benefits and access to rights, it does not in itself guarantee the provision of those rights. The role of civil registration in accessing rights and services is most pronounced in cases where laws, policies, or practices make access strictly contingent on the possession of a birth certificate or identity documents derived therefrom, and other more fundamental economic, political and social obstacles do not impede access (Asian Development Bank, 2007).

Regarding the first premise, many countries in the Asia-Pacific region and in the world make access to services contingent on identity verification through the presentation of a birth, marriage or death certificate, depending on the service. While civil registration is important for both individuals and societies, a key danger in making access to rights and benefits strictly contingent on legal identity documentation is that it may lead to the exclusion of unregistered and consequently unrecognized citizens. Unregistered citizens are usually found among already poor and vulnerable groups. In some instances where civil registration coverage is low, States may create alternative mechanisms in the interest of preserving individuals’ access to rights.

As for the second premise, civil registration and legal identity do not exist in a vacuum, but in specific political and socioeconomic contexts that can affect the coverage and quality of registration and regulate access to social protection. Armed conflict, weak social protection policies for migrants, obstacles to registration, such as distance, time required, cumbersome processes and high civil registration fees, are some of the factors that may impede the achievement of high registration rates and therefore limit individuals’ access to opportunities, whether intentionally or unintentionally. Understanding these obstacles and their consequences is important in order to find alternatives and solutions that promote social inclusion and development. The significance of legal identity varies significantly among countries and is highly dependent on the levels of State management and of formal interaction between a country and its residents (Apland and others, 2014).
Why civil registration matters in accessing rights and services throughout the life course

Civil registration has an impact on people’s access to rights and services throughout their life course. For instance, lacking a birth certificate poses problems in childhood when attempting to access educational services, in adulthood when trying to obtain formal employment and access health services, and in old age when endeavouring to claim pension benefits and social allowances. In the following sections, the role of civil registration throughout the life course is described, i.e. how civil registration affects children, the working age population and older persons.

1. Children

Currently, more than 230 million children around the globe have not had their birth registered (UNICEF, 2013). A birth certificate can help protect children against child marriage, child labour, recruitment of child soldiers and trafficking in children. It provides a child with the basis for acquiring a nationality and records parental information. In the event of separation due to a disaster or national emergency, the existence of a birth certificate or the records found in population registries can facilitate tracing families, as there is documentation on the child’s origin (Plan International, 2014, UNHCR, 2010a). A birth certificate can prevent abductions and illicit adoptions, and it entitles a child to access the juvenile justice system and claim his or her inheritance rights. Access to education is often given as a reason for obtaining a birth certificate (Apland and others, 2014). Without birth registration and ensuring birth records, it is impossible for Governments to have a complete list of potential school-age children, making the concept of compulsory education meaningless (Powell, 1980). The extent to which a birth certificate is needed for school enrolment is country-specific.

Certain countries, such as India, specifically state that alternative documents to the birth certificate can be used to access education (Apland and others, 2014). According to the 2009 Right of Children to Free and Compulsory Education Act, alternative documents or a declaration of the age of the child should be accepted in lieu of a birth certificate. Interviews conducted by Plan International in India suggest that, despite the lack of a legal requirement for a birth certificate, many children and parents are still under the impression that a birth certificate is necessary for school enrolment (Apland and others, 2014).

In Viet Nam, on the other hand, a birth certificate is legally required for enrolment in both preschool and primary school. Viet Nam has high birth registration coverage (95 per cent), but parents younger than 18
years of age with more than two children\(^7\) or of disputed nationality are less likely to register their children, further disadvantaging such already vulnerable children (Apland and others, 2014).

In countries where social protection includes free or subsidized healthcare, lack of identity documents may also create an obstacle to accessing such services. Often access to free or subsidized healthcare depends on obtaining an identity or health insurance card. A case in point is Viet Nam, where a health insurance card guarantees free healthcare for children under age 6 and reduces the cost of healthcare for other vulnerable groups (Apland and others, 2014).

A recent study by Plan International (Apland and others, 2014) assessed health outcomes and the relationship to birth registration using Demographic and Health Survey data. The study suggested some positive correlation between indicators of child nutrition, medical treatment and birth registration, although the direction of the relationship will remain unclear until further research is conducted (Apland and others, 2014). The positive correlation could be explained by the fact that children born in a health facility are more likely to have their births registered as well as have access to health services than those born at home. According to UNICEF, immunization efforts provide an opportunity for health-care workers to be alerted when no health card or birth certificate is produced for the child, leading vaccination to be viewed as a potential point of entry to registration for a child (UNICEF, 2005).

Although birth registration serves as official proof of age, which can be used to enforce laws relating to minimum age for employment and thus prevent child labour, the link between child labour and birth registration seems to be weak, as child labour is much more dependent on enforcement of labour legislation and other factors than on the ability to prove children’s age (Apland and others, 2014).

2. Working age population

The lack of civil registration has varied manifestations. For example, a sixth of the South Asian labour force (more than a 100 million people) comprise the working poor,\(^8\) many of whom do not have access to State-

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7 Respondents to the study undertaken by Plan International explained that Viet Nam’s unofficial two-child policy led some parents to not register the third, fourth or subsequent children because this would imply having to admit to having violated a government policy (Plan International, 2014). Respondents also reported that it is difficult to obtain a birth certificate for a baby when his or her parents are younger than 18 years of age, but it is unclear from the information gathered whether this is a requirement of law or a barrier experienced by some individuals in practice.

8 Individuals that are vulnerably employed are defined here as those earning less than $1.25 aday.
provided social protection precisely because they lack a legal identity. For women, a lack of legal identity acts as a double deficit, as women are more likely to be unemployed and face discrimination on several other fronts, often being relegated to having to endure a vicious cycle of dependence and exclusion.

Identity documents are a gateway to the full enjoyment of the rights of citizenship, including access to formal employment. In Australia, for instance, the “right to work” is currently granted to Australian and New Zealand citizens who present a passport and birth certificate, and to everyone else holding a visa with work rights. However, many Aboriginal and Torres Strait Islander people are often unable to obtain a birth certificate because their birth was never registered, or they cannot satisfy the identification requirements for births, deaths and marriages (OnemdaVicHealth Koori Health Unit, 2013). The significant gap between the birth registration rates of indigenous and non-indigenous Australians is a factor contributing to the difference in their unemployment rates, estimated at 17 per cent and 5 per cent, respectively, as of 2011 (Australian Bureau of Statistics, 2012).

As previously observed, there is a link between employment and possession of registration documents. In the absence of formal identification documents, workers may turn to other means to access employment. Foreign fishermen and their dependents in Thailand often obtain informal identification documents from provincial authorities in order to protect themselves from arrest by local police. Although these documents are not recognized at the federal level and do not provide access to any services, the fishermen have to pay a monthly fee to maintain these documents (International Labour Organization, 2013).

Informal employment, in particular in the form of informal firms, is particularly related to registration documents. It is often difficult for informal firms to gain formal status, as owners of firms may require several pieces of documentation in order to register their business: at the minimum, a national identity card, birth certificate or other identification documentation. In Sri Lanka, obstacles to obtaining such documents are seen as a reason for not formalizing businesses (De Mel and others, 2012). In countries with contributory social protection schemes, informal workers (in formal or informal establishments) are often excluded from benefits, such as death and disability insurance, health insurance and old age insurance (pensions). While informal employment can play an important role in keeping open economies competitive (through lowering the cost of labour, new hiring and retrenchment), it leaves individuals and their families highly vulnerable to idiosyncratic and covariate shocks.

Citizens living in urban informal settlements may also be denied the legal protection and economic benefits of those in formal settlements. In informal settlements, for instance, if a household or its occupants lack
registration, access to a city’s water supply network is denied on legal grounds and people are forced to buy water from private vendors at a much higher cost than would be the case otherwise, thereby increasing their level of poverty (United Nations Office of the High Commissioner for Human Rights and others, 2003).

A birth certificate is a prerequisite for obtaining a passport, getting a driver’s licence and being granted a tax file number, and it is also frequently required in order to access social security systems and open a bank account (OnemdaVicHealth Koori Health Unit, 2013). In short, being in possession of identity documents is a prerequisite for full participation in society.

3. Older persons

Proof of age, marriage and death is a critical requirement for claiming certain rights and benefits, such as pensions, social allowances and inheritance rights. There is therefore a clear relationship between access to social protection and older persons holding legal documentation of their age and civil status.

Older persons are particularly vulnerable to exclusion from programmes providing income security and other services. Older persons are less likely than people in other age groups to possess proof of their age and identity, as in many countries the current generation of older persons had been born before civil registration systems were introduced, and thus they were unable to obtain identity documentation at birth (HelpAge International, 2011). Geographical and ethnic disadvantages also affect older persons in their ability to enjoy their rights and access services. In Thailand, for instance, several studies have highlighted the difficulties that older people face in accessing the so-called old-age allowance and other government services; this situation also applies to Muslims and people living in remote mountainous areas who lack identity documents and cannot prove their citizenship (United Nations Development Programme, 2012).

Further barriers for older people include the physical and financial costs of navigating bureaucratic procedures, as older persons are particularly affected by poor health, disability and poverty. Low literacy rates and the lack of birth certification can lead to exclusion due to misspelt names and to ages that are approximated or randomly assigned (HelpAge International, 2011). Gaps and inaccuracies in the age or date of birth details in existing documents pose a greater challenge for older women than for older men. This is explained by the general tendency for women to have lower levels of literacy compared with men.

There are various cash transfer programmes throughout the region set up to provide vulnerable older persons with social pensions and
allowances. The success and the impact of non-universal cash transfer programmes depend on the accuracy of the targeting process, which in turn essentially depends on the effectiveness of the registration process (HelpAge International, 2011). Age-based cash transfers, such as child grants and social pensions, are being implemented in many countries and tend to be administratively simpler and more effective in minimizing targeting errors than other methods. However, verifying age in countries with weak civil registration systems can prove to be a significant barrier to implementation, with vulnerable people, including older persons, being unable to obtain identity documents, or encountering significant difficulties in doing so (HelpAge International, 2011).

Two important aspects of civil registration policy that affect civil registration records among older persons are the existence of incentives and of institutional efforts. Government campaigns and institutional efforts to elicit higher registration rates from the population tend to target mainly children and their parents, rather than people in the older age groups. In addition, unlike children who need birth certificates to attend school, older persons have fewer incentives and opportunities to seek identity cards or other legal civil registration records (HelpAge International, 2011). Whereas age-based cash transfers and old-age discounts for certain services provide an incentive for the registration of older persons, health and other types of services are provided for independently of proof of the recipient’s age. Registering the marriage and death of older persons mainly benefits the deceased person’s family members, as it allows them to claim the right to inheritance and life insurance benefits. There are often obstacles to claiming these rights however. Widows in Nepal, for instance, are entitled to a widowhood pension, but only if they can provide proof of their previous relationship, as well as the death and citizenship certificates of their deceased husband (Asian Development Bank, 2007).

Who is in and who is out? Improving civil registration policies and social assistance to promote social inclusion

Civil registration can be a double-edged sword: on one hand, it helps widen opportunities for development at the individual and societal levels, and on the other, it can have exclusionary effects if proper safeguards are not respected. In contexts where regulations around registration are too rigid, citizens or policymakers do not see the benefits of registration, or obstacles to effective registration exist, population groups lacking identity documents will be at risk of exclusion and increased poverty. As observed in an Inter-American Development Bank study of legal identity in Latin America, “the denial—or limitation—in the exercise of full citizenship that derives from not having a legal identity is aggravated when added to other exclusionary factors such as socio-economic condition and discrimination based on gender, ethnicity, or nationality” (Harbitz and Tamargo, 2009). Civil registration policies
have the possibility of improving recognition, status and rights, but can equally be applied for the opposite purpose.

As observed in several countries in Asia and the Pacific, social exclusion and discriminatory practices take place on the basis of ethnicity, language, caste, religion, geographic location of residence and sexual orientation. Population groups at particular risk of exclusion from having a legal identity and thus access to rights and services include ethnic and religious minorities, mobile populations and their children, populations living in remote and rural areas, persons with disabilities, transgender persons and other vulnerable groups. Women are also at higher risk of exclusion, particularly in countries with high gender inequality before the law.

In most countries, there is little divergence between the birth registration coverage of men and women (United Nations Children’s Fund, 2013). Despite this, women are adversely affected by lack of registration, although examples of registration issues affecting women in particular are often related to marriage registration. In cases where a marriage between a man and a woman was not registered, and where the husband dies, it may be difficult for the widow to prove inheritance rights and register her children. Children from the marriage may be denied their father’s name even in the birth certificate, which can prove to be an obstacle to obtaining a nationality. A case in point is Nepal, where it becomes difficult for a child in such a case to obtain legal documentation when the parents’ marriage remains unregistered and the father passes away (Himalayan, 2014).

A combination of birth and marriage registration may have positive effects on preventing child marriages. A recent study of child marriage in Bangladesh showed that there was a negative relationship between birth and marriage registration and child marriage. Respondents in that study pointed out that universal birth and marriage registration, as well as enforcing the use of the actual marriage date on marriage certificates, were likely to assist in preventing underage marriage (Haque and others, 2014). Monitoring gender imbalances within the population has been raised by the Government of India as one of the main possible benefits emerging from the use of more reliable demographic indicators, which could be achieved through a well-functioning civil registration and vital statistics (CRVS) system (Apland and others, 2014).

Persons with disabilities, often found among older persons in the population, not only face physical barriers in registering vital events, but are also sometimes denied the basic right to obtain a birth certificate due to discriminatory practices. In addition, persons with disabilities are often not registered at birth, which means that, although they are equal citizens from birth, they are unable to get the documentation that reflects the fact of their citizenship, such as passports, IDs and voting cards.
Migrants, refugees and stateless persons

Key protections guaranteed by international human rights law apply equally to citizens, stateless persons and migrants, including asylum-seekers and refugees. For example, international human rights law mandates that the births of all children ought to be registered and that no qualifications be made in respect of the right of all individuals to be recognized before the law regardless of their nationality status. Many States in Asia and the Pacific include non-nationals within their respective civil registration systems, including Brunei Darussalam, India, Malaysia, the Philippines, Singapore, Thailand and Viet Nam (UNHCR, 2014a; Apland and others, 2014).

The relationship between birth registration and nationality, a key component of legal identity, is complex and often misunderstood. Registering the birth of a child born to a migrant in a foreign country does not automatically confer the nationality of the host State on the child. Nationality is acquired as a result of the operation of a State’s nationality law, on the basis of descent, whereby children acquire the nationality of their parents (jus sanguinis), through a child’s birth on a country’s territory (jus soli) or, usually, a combination of these approaches set out in the detailed provisions of the law. The registration of the child’s birth is the first step in establishing its legal identity and usually includes key information, such as the identity of the child’s parents and the date and place of birth, that will establish the child’s nationality under the law of the State where he or she is born or under the law of other States to which the child has a relevant link (UNHCR and Plan International, 2012). Consequently, birth registration can help in realizing the child’s right to a nationality and can help to prevent and reduce statelessness. As a matter of policy, some States in the region have chosen to include the evaluation and confirmation of the child’s nationality status at the point of registration (UNHCR, 2014a).

Birth registration can also help the children of migrants to establish their legal identity. In 2008, Thailand amended its civil registration law to allow for the births of all children in Thailand to be registered regardless of the nationality or immigration status of the child’s parents. As a result, between 2010 and the end of October 2012, 1,922 children of persons living in “temporary shelters” for “displaced persons” on the border between Thailand and Myanmar had their birth registered and were issued with birth certificates. This not only helped to establish the legal identity of the registered children but also provided a documentary link to their country of origin, which may help in the realization of future durable solutions9 (UNHCR, 2013a and 2014b).

9 The term “durable solutions” is used by UNHCR to refer to solutions aimed at enabling refugees to rebuild their lives in dignity and peace. There are three main types of solution: voluntary repatriation; local integration; or resettlement to a third country in situations where it is impossible for a person to return home or remain in the host country (UNHCR, no date).
At the end of 2013, the Asian and Pacific region hosted more than 1.8 million stateless people out of a global figure of 3.4 million identified as stateless (UNHCR, 2014b). The majority of these people are not migrants but are living in the country in which they were born and in which their parents were born. Stateless children are particularly at risk of not having a legal identity and not being recognized or protected by the State. They can be denied access to healthcare, including immunization programmes, excluded from school and be kept outside social welfare and child protection systems (UNHCR and Plan International, 2012). This is of particular concern because this group includes many who are not recognized as citizens even though they are entitled to citizenship under the nationality law of the State in which they reside.

States in South-East Asia have also taken steps to prevent and reduce statelessness and to better protect stateless persons (UNHCR, 2011). For example, the Government of Malaysia has undertaken registration and documentation campaigns among long-settled communities where levels of legal identity documentation were low. It has encouraged teachers to help school children without civil documentation to acquire documentation to show that they are nationals (UNHCR, 2014a). In the 1990s, large-scale statelessness arose following the break-up of the Union of Soviet Socialist Republics, with many people losing their nationality when the territory in which they had been born undergoing a change in status and being transformed into another State. States in that subregion have taken steps to address this phenomenon. Kyrgyzstan adopted an action plan on the prevention and reduction of statelessness in 2009 and subsequently implemented that plan. The plan includes actions to prevent and reduce statelessness among the affected population and ensure the birth registration and issuance of birth certificates to all children born within the borders of Kyrgyzstan through analysis and improvement of relevant legislation and practice in accordance with the child code of Kyrgyzstan and the Convention on the Rights of the Child (UNHCR, 2010b and 2013b).

The relationship between civil registration and access to services has been described as “context-specific” and “purely a function of government policy and practice” (Apland and others, 2014). This is particularly true for migrants and refugees. For example, for migrants, the barriers to accessing health services can be both institutional and financial. The marginality of migrants means that they are often faced with a double jeopardy situation of being more likely than non-migrants to need health services but less able to access them. This has implications for the rights of migrants as well as public health principles concerning disease transmission, its prevention, mitigation and where possible, eradication (Asia-Pacific Regional Coordination Mechanism Thematic Working Group on International Migration including Human Trafficking, 2012). Measures have been taken to address this challenge in particular national contexts. For example, Thailand established a process to register and
regularize irregular low-skilled migrant workers, particularly those from Cambodia, the Lao People’s Democratic Republic and Myanmar; that process includes access to health insurance (Chantavanich, Middleton and Ito, 2013). However, that process has taken place separately from the civil registration scheme for the birth, marriage and death of migrants.

The inclusion of migrants, refugees and non-nationals within civil registration systems can help these groups to access social protection, depending on the national context, government policy and practice. However, social protection systems often do not fully integrate migrants, refugees and non-nationals, and gaps can therefore arise regardless of whether or not legal identity has been established. Civil registration also has an important role to play in helping to establish entitlement to nationality under domestic nationality laws. Even though registration itself does not usually confer nationality, it can contribute to the prevention and reduction of statelessness and to establish other key elements of the child’s legal identity, including their parents’ identity and the child’s date and place of birth. Registering the birth of children can help to establish links between the children and their parents’ country of origin, which can help in realizing durable solutions for the children of asylum seekers and refugees.

Social assistance and the use of civil registries

States within the region have taken notable steps to improve levels of civil registration, including among previously excluded or hard-to-reach populations (UNHCR, 2014a). Social assistance programmes represent an effort to expand opportunities available to mainstream society to the vulnerable and disadvantaged segments of the population. Social assistance is one of the key pillars of social protection, although entitlement to such programmes is typically less straightforward and more fragile than is the case with education, public health or social insurance. In social assistance programmes, significant emphasis is often put on preventing benefit hoarding (the so-called doubledip) and requiring prospective beneficiaries to present an array of documentation and evidence (national ID cards, proof of residence, employment, family status, living conditions etc.).

Having high-quality registries – complete, up-to-date and/or integrated information going beyond existing beneficiary lists – matters for social assistance. In looking at the issue from the other end, the breadth and depth of social assistance programmes influence the probability that a child or an adult person (or a key life event that happened to them, such as birth or death, marriage or divorce) will be registered by public authorities. Therefore, good registries are highly important for adequate social assistance, and such programmes can play a pivotal role in assisting the completeness of civil registration and vital statistics.
A recent report published by the Asian Development Bank\textsuperscript{10} portrays social assistance programmes, mainly social transfers, child welfare and disaster relief, as:

- Rising in importance;
- Covering more individuals than do social insurance or labour market programmes;
- Absorbing less than half of the aggregate public expenditure of social protection on average in the 35 countries in Asia and the Pacific in 2009.\textsuperscript{11}

The rising importance of social assistance – and shrinking importance of social insurance programmes, including classic social security type benefits and entitlements, such as health or unemployment insurance, maternity and sick leave and old age pension – is closely related to difficulties in expanding civil registration. There are several issues for consideration here.

The first is that \textit{intended programme coverage} among the poor has traditionally been “too low” in Asia and the Pacific. Where social protection programmes focus chiefly on privileged populations, such as civil servants, and where the rest of the programmes are fragmented, small and/or highly targeted, there will be difficulties in having social assistance programmes respond to individual needs (e.g. to smooth consumption or to provide pathways to accessing different social services) or to societal needs (e.g. sustaining aggregate demand, preventing mass impoverishment). Likewise, under such conditions social protection will provide relatively little support for improved civil registration systems. Workers in informal employment will have a high chance of staying unregistered overall together with their families; in times of crisis, Governments will need to launch ad hoc programmes or upgrade existing programmes (e.g. self-targeting public work), a process that takes extra time and involves high cost.

Even if several large conditional cash transfer or other social assistance


\textsuperscript{11} The methodology of the Social Protection Index does not include price subsidies (mainly food and energy), consideration of which would probably change this conclusion – even if it is clear that these public expenditures also reflect concerns beyond social protection. The Bank’s social protection strategy defines social protection as a set of policies and programmes designed to reduce poverty and vulnerability by promoting efficient labour markets, diminishing people’s exposure to risks and enhancing their capacity to protect themselves against hazards and interruption/loss of income (ADB, 2011).
programmes were initiated or enlarged in the wake of the 1997 Asian financial crisis and the so-called 2007/08 great recession, most countries in Asia and the Pacific would still be far from having in place an effective social protection floor and/or a well-integrated social protection system.

Second, the very same characteristics which are built into the programme or system to ensure minimizing inclusion errors – giving benefits to people who are not entitled to them – will in fact often sustain and enlarge exclusion errors. People who should get the benefit or service will remain outside the programme or the social protection system. Such exclusion errors, which lead to unintended, “passive” exclusion of beneficiaries, are ubiquitous among narrowly targeted programmes, increasing the risk that birth certificates, IDs and residence cards and other requirement become tools of social exclusion instead of levers of inclusion. In Thailand, an evaluation found that means-testing old-age allowances led to half the underprivileged older persons being unregistered in the programme (United Nations Development Programme, 2012).

Nonetheless, exclusion errors can undermine even the more universal programmes. After Thailand introduced the universal 500-baht pension scheme, including through two enrolment campaigns, the registration rate among the entitled beneficiaries stood at 78 per cent, with an estimated 1.2 million older persons not yet registered for the scheme in late 2010. Similarly, in South Africa, for example, a recent evaluation of the country’s flagship child grant programme – which reaches more than 60 per cent of South African children – found nearly 2 million intended beneficiaries excluded from the programme (UNICEF, 2012).

A well-developed civil registration system and population register can form the backbone of a unified registry for social programmes. Such a unified registry can then be instrumental in addressing overlapping economic and social vulnerabilities through an effective and efficient social protection system, rather than via a loose patchwork of programmes constantly filling in the gaps in the social protection floor by small-scale, additional interventions.

At the societal level, a sound civil registration system lays the foundation for obtaining reliable vital statistics, i.e. statistics on births, adoptions, deaths and marriages meant to be collected for the entire population on a continuous basis. This information serves as a solid basis to plan for people’s needs, among other things, to estimate the number of schools that will be needed in a given area, to understand mortality patterns and reorient the health system accordingly and to adjust budgets to the size and needs of the population in specific geographical areas. Good-quality vital statistics therefore enable researchers and policymakers to better

12 At the current rate of exchange, US$ 1 is equal to about 32 baht.
identify problems in a given population, develop effective programmes and monitor their impact. In addition, the work of civil registers is the backbone for other official registers and provides the infrastructure for good governance. Szreter (2006) maintained that identity registration and the provision of social security laid important foundations for development, noting that “identity registration can also be a multi-faceted institutional mechanism for simultaneously promoting economic growth, population health, and welfare”. Unfortunately, as described by Abouzahr and others (2014b), many countries in Asia and the Pacific have systems in dire need of improvement.

**Conclusions and recommendations**

In this article, the links between access to legal documentation, such as birth, marriage and death certificates, and access to social protection and the often linked realization of human rights have been examined. Owing to non-registration alone, information on unregistered persons is often scarce. Unregistered persons are invisible to the State; therefore, their level of vulnerability and the limitations they face in gaining access to social protection can be difficult to assess.

Various basic social protection provisions, such as education, health care and social assistance programmes, often bypass individuals whose vital events are not registered. Additionally, the lack of registration results in population registers with only limited coverage; in addition, it limits the quality of vital statistics and thus poses a challenge to good governance, hindering evidence-based policymaking and planning. A lack of vital statistics can make it difficult to assess whether universal education and health care are being provided and whether long-term needs for facilities are secured. As the allocation of public resources depends largely on an accurate assessment of gaps, the lack of good-quality vital statistics poses a real challenge in terms of determining needs.

This article also contained a discussion on how the relationship between civil registration and the realization of rights and services varies according to country-specific contexts. However, it is clear that registration is a benefit to the individual in almost all circumstances, and exclusionary effects can be minimized when registration is applied in an inclusive and effective manner. More comprehensive and inclusive civil registration is likely to better align the allocation of resources with real needs, thus improving the effectiveness of social protection schemes and other public investments.

Without a formal identity, it is difficult for an individual to fully participate in society. Some possible benefits of registration are, however, difficult to assess. Due to the “invisibility” of unregistered persons, little data exist on the impact of non-registration on the increase in certain types of vulnerability, such as the recruitment of children for organized
crime. However, it is likely that the impacts of low registration, due to their link to realization of rights and access to services, include lower school enrolment, decreased access to formal employment and decreased access to health services.

While noting the high diversity of CRVS and legal contexts within the Asia-Pacific region, there are a number of general recommendations that can be highlighted in order to increase the effectiveness and inclusiveness of CRVS, leading to an increase in individuals’ opportunities for full participation in society.

It is essential to ensure that the legislation on civil registration is universal in scope and facilitates the registration of vital events of all individuals, regardless of their situation. Simplifying registration procedures and enhancing user-friendliness of the application process are important steps towards ensuring high coverage of civil registration and minimizing possible exclusionary effects. Outreach activities to include remote and mobile populations, as well as building social considerations (gender, age, disability, cultural, group-specific, area-specific etc.) into programme design would further increase registration coverage.

With regard to the right of children to be registered at birth, registration processes that are separate from the establishment of the marital status of parents and citizenship or origin status can contribute to the confirmation of a child’s legal identity by registration, including for the children of undocumented migrants, refugees and non-nationals. Providing a legal identity from birth guarantees that the realization of rights and access to services later on in life will not be denied exclusively on the basis of a person’s registration status. Civil registration for non-nationals is distinct from the granting of legal residency. The registration of the births of children includes key information, such as the identity of the child’s parents and the date and place of birth, which will establish the child’s nationality under the law of the State where he or she is born or under the law of other States to which the child has a relevant link. However, registration itself does not automatically grant nationality or legal residency.

Governments also need to decide how to protect the confidentiality of data while ensuring the right of family members to have access to such information. As indicated by Harbitz and Tamargo (2009), processing information disaggregated by sex and ethnicity should be a sine qua non requirement for the production of information of this type. However, such information is extremely sensitive, and every measure should be taken to protect the information from being used for political or discriminatory purposes, either directly or by function creep.

It is essential to be aware of the potentially negative aspects of civil registration and provide solutions to counter such aspects. Regarding
social assistance programmes, countries can consider the potential unintended consequences of incentives and initiatives to promote civil registration and ensure that efforts to increase registration do not have any adverse impacts on the enjoyment of other rights, and address these instances in both advocacy and programming. Some of the actions that have a good record in reducing exclusion errors in social protection programmes are ensuring active links to social work and adequate referral mechanisms; strengthening demand by researching and addressing bottlenecks in access, uptake and adequate use of benefits; planning jointly with sectoral ministries, local governments and civil society making parallel adjustments in the supply side of services; securing adequate complaint and remedial mechanisms; using better digital technology; and evaluating programmes periodically and making sure necessary adjustments are followed through.

Individuals should not be denied access to rights and services, such as health care and education, on the basis that they are not registered. Inclusive and effective civil registration and vital statistics systems would contribute not only to safeguarding individual rights, but to strengthening development in Asia and the Pacific.

References


