

Ensuring birth registration for the prevention of statelessness

Everyone has the right to be recognized as a person before the law, as enshrined in Article 6 of the Universal Declaration on Human Rights. To strengthen access to legal identity¹, the 2030 Agenda for Sustainable Development established a specific target within the Sustainable Development Goals – Target 16.9: “By 2030, provide legal identity for all, including birth registration”.

As civil registration, and particularly birth registration, provides an official record of the existence of a person and the recognition of that individual before the law, it has been the fundamental means of granting legal identity. The right for all to be registered at birth is included in various human rights instruments. Despite this, the births of many children around the world go unregistered. Refugees, other displaced people, and stateless populations face particular barriers in accessing birth registration for their children. Children without birth registration are more vulnerable to protection risks, may have limited access to services and could be at risk of statelessness if they have problems proving their links to a State. The risk of statelessness is especially high for those without a birth certificate who belong to a minority group, a cross-border population or are descendants of migrants and refugees as their ties to a state are more likely to be challenged.

Birth registration is essential for the prevention of risks of statelessness

Individuals can be at risk of statelessness if they have difficulties proving that they have links to a State. Lack of birth registration can create such a risk. This is because birth registration documents where a person was born and who their parents are – key pieces of information needed to establish which nationality a child can acquire.

A birth certificate is often a prerequisite for obtaining documentation that proves nationality. In some countries a birth certificate alone is regarded as proof of nationality, particularly where nationality is acquired automatically based on birth in the territory. At the same time, many countries only issue national identity cards at the age of majority. Where this is the case, birth certificates in combination with proof of nationality of the parents often serve as a temporary proof of nationality when children need to take final exams, graduate, or access healthcare and social services.

Barriers to birth registration

Common barriers to birth registration include procedures being complex and lengthy, fees associated with birth registration, documentary requirements (such as identity documents of parents), lack of physical birth registration centres and physical access, language barriers,

¹ The UN operational definition of legal identity: “Legal identity is defined as the basic characteristics of an individual’s identity. e.g. name, sex, place and date of birth conferred through registration and the issuance of a certificate by an authorized civil registration authority following the occurrence of birth. In the absence of birth registration, legal identity may be conferred by a legally recognized identification authority.” While nationality is not included as one of basic characteristics of the UN operational definition of legal identity, the link to nationality is derived from birth registration which records where a person was born and the individual’s parents – key pieces of information needed to establish nationality.

illiteracy, discriminatory laws and practices, and lack of awareness of the importance and availability of (late) birth registration procedures.

Groups at heightened risk of statelessness

Some population groups are at particular risk of statelessness because their situation makes it difficult for them to register births or obtain related documents and/or because their ties to a country may not be evident or may be disputed. They include nomadic and border populations, minorities, refugees, internally displaced persons, and migrants. Abandoned, orphaned, unaccompanied or separated children are especially vulnerable and often lack any documents establishing their identity.

In the absence of birth certificates, persons living in border areas and nomadic populations who cross international borders may find it difficult to establish their entitlements as nationals in either of the States in which they live.

Minorities are often denied equal access to rights and services, including access to documentation.

Migrants in irregular situations may be unwilling to approach the authorities to register their children for fear of being identified or deported.

Refugees and IDPs (and their descendants born in host countries) can be at risk of statelessness when their documents have been lost, left behind or destroyed during flight. The destruction of State archives and civil registries can also make it difficult to confirm their identity, and they may find it difficult to access or be prevented from accessing (late) birth registration, in the countries in which they have found safety. In addition, the civil registry authorities in the country of origin may not be competent to conduct late birth registration because the birth occurred outside of their jurisdiction.

The importance of late birth registration to ensure all children are registered

Given that birth registration does not always occur in a timely manner, States need to establish and maintain procedures for late and delayed birth registration and may consider undertaking campaigns to register older children and adults.

Where late birth registration is in place, the procedures can be lengthy, costly and complex and therefore inaccessible to undocumented, stateless and other marginalized populations. It is important that such barriers are removed.

The importance of birth registration in granting nationality to otherwise stateless children

Birth registration is also important in the implementation of safeguards for children who would otherwise be stateless, including the safeguards contained in the 1961 Convention on the Reduction of Statelessness (1961 Convention). For example, Article 1 of the 1961 Convention requires States to grant nationality to children born on the territory if they would otherwise be stateless and a birth certificate can help in establishing eligibility for nationality in line with the safeguard as it indicates the country of birth and the child's parents.

Birth registration may also serve as an entry point for the identification of children who should benefit from the safeguard, in particular where mechanisms are put in place for civil registrars to refer potentially stateless children to authorities in charge of nationality matters. Birth certificates can also be important in finding durable solutions for refugees and stateless people.

The importance of marriage registration as a means to prevent statelessness

Marriage registration can also help prevent statelessness among children. In some countries, a child can only acquire the parent's nationality if the child is born in wedlock. To prove this, parents need to provide relevant authorities with a marriage certificate, making

administrative registration of marriage of crucial importance.

The importance of death registration as a means to prevent statelessness

In case one of the parents dies before birth registration takes place, a death certificate may be necessary for a birth to be registered for the child's nationality and other rights to be recognized. In particular in countries where nationality is attributed based on descent from a citizen, a death certificate of the parent may be important.

Good practices in ensuring birth registration for the prevention of statelessness

Bringing services closer to populations with low birth registration rates and removing other barriers to birth registration

Where civil registration services are unavailable or out of reach, measures must be taken to bring these services closer to affected populations. Decentralized birth registration services can help to increase birth registration rates among populations in remote or otherwise marginalized areas. Access may also be enhanced through the deployment of mobile teams. However, mobile birth registration services are not a long-term solution and should not replace measures to bring static services closer to these populations.

To identify barriers to birth registration, it is important for authorities to consult with

populations which have low birth registration rates.

Integrating birth registration with other public programs

It has been shown that birth registration rates have risen where synergies have been developed with other sectors such as health, education and social security. Particularly in maternal health services, midwives, doctors and birth attendants play a key role in informing parents about the importance of birth registration and associated procedures. Health professionals are also a vital entry point to the registration process since in most countries they are responsible for issuing birth notifications, the first step in the process.

Digitalization of birth registration services

Many countries have not yet transitioned from paper-based to digital civil registration systems. Digitization offers opportunities to overcome geographic and administrative obstacles to registration through the adoption of new technologies. While privacy and other risks need to be addressed carefully, digitized birth registration has the potential to strengthen civil registration and statistical systems.

Ensuring birth registration of foundlings

In line with Article 2 of the 1961 Convention a foundling found in the territory of a Contracting State is to be considered to have been born within that territory and of parents possessing the nationality of that State, unless there is proof to the contrary. Registering the births of foundlings can trigger the safeguard of Article 2 to prevent statelessness.

Recommendations

- **The principles of equality and non-discrimination are central to the implementation of universal birth registration** because children who are vulnerable and marginalized are also more likely to be unregistered.
- **Birth registration should be conducted for each new-born child immediately or as soon as possible after birth.** Procedures should be free and accessible and late birth registration fees should be waived. Birth registration may not be conditional on the nationality, migration and residence status of parents.
- **Birth registration systems should be flexible and responsive to the circumstances of marginalized populations, including displaced persons, stateless persons, or migrants.** Decentralization of CRVS services is important to facilitate access to populations living in remote areas. This could also include mobile birth registration campaigns. Protocols should allow for alternative procedures in situations where marginalized populations are unable to produce the required documents to register a child - rather than leaving the child unregistered.
- **Children who lack a birth certificate should be allowed to access basic services while waiting to be properly registered.**
- **Authorities should include children born to refugee, stateless, undocumented and at-risk parents in baseline assessments and national strategic improvement plans** as part of efforts to achieve universal CRVS systems.