



Democratic Governance, Citizenship, and Legal Identity

**Linking Theoretical Discussion and
Operational Reality**

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Abstract*

This working paper explores the importance of legal identity from both a theoretical and operational point of view. The need to investigate and deepen the understanding of the implications of being *sans papiers* in relation to social exclusion and governance issues is highlighted. Lack of identity documents or legal identity can be connected to poverty and vulnerability, as well as to the absence of transparent and efficient processes in public administration. Those who lack identity face considerable barriers to access many social and private benefits such as school certificates, health services, conditional cash transfers, pensions, banking services, voting rights, among others. At the same time, if governments lack accurate information about its citizenry, they will face greater difficulties in policy planning. These challenges are illustrated with examples from field research carried out in Latin American and Caribbean countries and this paper argues that proof of an adequate and secure identity document is not only the base of a democratic society and obligation of all governments, but also a fundamental citizenship right.

Key Words: Citizenship, Civil Registration, Democratic Governance, Lack of Documentation, Legal Identity.

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“I want to protect my children’s inheritance and property.
I want them to have what I never got: access to education.
I want them to know and have proof of who their parents are.
Above all, I want them to realize
that they are citizens of [this country].”¹

INTRODUCTION

Legal identity is as much about being a citizen as it is about one’s sense of belonging and ability to exercise his or her rights and obligations. In the international debate, people *sans papiers* have mostly been perceived as illegal migrants that have crossed the border from impoverished developing countries in search of better lives in more developed countries or regions. However, there are many people *sans papiers* who never leave their country of birth and are rarely recognized or acknowledged by politicians, journalists, or academics because they lack legal identity.

Legal identity can be understood as a composite condition obtained through birth or civil registration which gives the person an identity (name and nationality) and variables of unique personal identifiers, such as biometrics combined with a unique identity number. The consequences for people that lack documentation that proves their legal identity can be devastating. Every day in any given country around the world, individuals are denied access to fundamental services and rights because they cannot present positive proof of identity. These services and rights include not only public benefits such as education, health coverage, and old-age pensions, but also private ones such as access to banking and credit services, property titles, and inheritance.

This article characterizes the state of being *sans papiers* as being undocumented. Conceptually, there is no discrimination between relative lack of documentation, which applies to citizens whose births may have been registered but who do not possess a legally valid identification document, and absolute lack of identity, which applies to citizens whose births were never registered, and who were never able to obtain any identity documents.

Legal identity and lack of documentation are rarely debated in academic circles and seldom addressed in development projects, which is unfortunate considering the fundamental and

¹ Quoted from a mother in Tororo, Uganda (Plan International, 2005: 15).

far reaching implications that the act of registering a birth has in all aspects of one's life and being and his or her relationship with society. Therefore, it is important first to discuss both theoretical concepts and practical examples to provide a better base of information in research entities and development agencies and, second, to stimulate more debate about civil registration and identification.

The first issue addressed is the importance of civil registration and its purpose in the Latin American and Caribbean (LAC) region. This is followed by reflections about different theoretic concepts that should be viewed as natural results of civil registration: democratic governance, citizenship, and legal identity. The third section illustrates the arguments raised so far with regards to links among civil registration, legal identity, and democratic governance with practical examples from civil registration agencies in the LAC region. The fourth section includes some good practice examples that can greatly nourish future project interventions, as well as central challenges that have been identified for all countries examined. The final section concludes that the implications of an efficient and universal civil registration system—beyond being a central national service within one country that should be provided in an efficient, continuous, and secure manner—stretches far beyond national boundaries. Democratic states should consider this as a crucial regional and international security measure as civil registration protects their citizens through the issuance of identification documents that ensure access to basic rights and services.

While studies carried out by development agencies such as the Asian Development Bank (ADB), UNICEF, Plan International, the UK Department for International Development (DFID), and the Inter-American Development Bank (IDB) have addressed the implications of under-registration (the difference between the number of actual births and registered births) or lack of documentation, the causality and link to state modernization processes and democratic governance need more systematic research beyond the research presented in this publication.

1. THE IMPORTANCE OF CIVIL REGISTRATION

Civil registration is the continuous, permanent, compulsory, and universal recording of the occurrence and characteristics of vital events (live births, deaths, fetal deaths, marriages, and divorces) and other civil status events pertaining to the population as provided by decrees, laws, or regulations in each country. It establishes and provides legal documentation of these events and their records are sources of vital statistics.

For many years, UNICEF and Plan International have promoted registration at birth in the context of the rights of the child, thus giving the child a name and a nationality. On a global level, the number of children who are born and not registered in their respective national civil registries is staggering. In 2005, approximately 48 million of the world's children under five years of age were not registered at birth, meaning that 36 percent—or more than a third—of these children are officially nonexistent.²

There are wide regional disparities in the estimates of under-registration of births around the world. For Latin America, UNICEF (2007) reports an under-registration rate of 11 percent for the period between 1996 and 2006. For the year 2006, UNICEF reports that 8 percent of births in LAC urban areas and 20 percent in rural areas were unregistered, which makes the region “well-off” compared to Southeast Asia, where an average of only 15 percent of children are registered at birth, meaning that about 85 percent are without legal proof of their identity.³ In OECD countries, under-registration is practically nonexistent (UNICEF, 2005: 3).

The estimates presented by UNICEF include children only between the ages of birth to five years and the methodology used is called the Multiple Indicator Cluster Survey (MICS), originally developed by UNICEF in 1995. One of the modules in the survey targets birth registration (BR1-4), thus providing a good approximation of the relative rate of under-registration. Civil registration data, if reported in a timely and accurate manner, provides detailed information about vital events of a country such as still and live births, marriages, divorces, and deaths. In contrast to census data—which only provides a ten-yearly statistical snapshot of a

² One cannot conclude though that 48 million of unregistered children will automatically translate into 48 million undocumented adults. The older a child grows, the more likely he or she is to become registered, mainly because of the various public benefits, services, and citizenship rights that the child or adult can obtain that he or she would otherwise be ineligible for (see explanation of barriers below). Nevertheless, the exact number of undocumented adult citizens in Latin America remains unknown and can hardly be measured with official statistical data. (IDB, 2006: 13).

³ For more specific data, see Asian Development Bank (2007).

country's population—civil registration data (together with other tools such as MICS and Demographic and Health Surveys) displays trends of much shorter intervals, for example on a yearly, quarterly, or even monthly basis. Birth registration data, if collected in an accurate way, can thus provide an extremely valuable and important policy-planning tool, since disaggregated population data contribute to identify geographic, social, economic, and gender disparities within national boundaries (Plan International, 2005: 12).

Although no methodology has yet been developed to measure the number of undocumented adult citizens, anecdotal evidence from projects aimed at reducing poverty can lead to the assumption that the numbers may not be dramatically different for the numbers UNICEF has estimated for the population in the 0–5 age group.

Initial research in developing countries has indicated key reasons behind why people have not been registered in the civil registries or why they lack a national identity document. The reasons may be grouped into five categories: economic, administrative, cultural, geographic, and political. Whatever the reason, the result is marginalization and disenfranchisement. The absence of a document that confirms a legal identity excludes the person from exercising his or her citizenship, which in turn weakens democratic governance.⁴

Accurate vital statistics are developed on the basis of input from civil registration institutions and provide the foundation for public policies and programs, especially in the areas of public health and education. When the civil registration information is incomplete or not universal, the vital statistics will have a wide margin of error. An aspect, or variable, of civil registration that appears even more prevalent than under-registration of births is the under-registration of deaths, which some LAC countries estimate to be as much as 50 percent. Furthermore, even when deaths are registered, the cause of death is either lacking or may be incorrectly assigned. In all cases of death, it is important to register the incidence and the accurate cause, because it is a key element of public health policy and program planning.

The under-reporting of births and deaths also represents a serious challenge for monitoring universal targets that depend on indicators linked to vital events, such as the Millennium Development Goals (MDGs). Vital statistics form the basis to measure the MDGs 2, 4, 5, and 6 (see Table 1) and if the civil registration system is not universal and the

⁴ The reason for the choice of “democratic governance” instead of governance only is explained in greater detail later herein.

communication between the civil registry and vital statistics institutions is not timely and efficient, serious vulnerabilities and inconsistencies could arise in terms of data management.

Without reliable vital statistics, the baseline for further monitoring and measurement could present considerable challenges. In addition to the measurement problem, there ought to be a serious debate concerning the link between missing civil registration data and reaching the MDGs by 2015. It is clear that this data—and consequently vital statistics—is seriously lacking in many countries around the world; thus it is noteworthy that the Millennium Development Goals Report 2008 only refers to lack of birth registration one time, as an issue for lack of school enrolment (UN, 2008: 17).

Table 1. MGD Goals 2, 4, 5, and 6

Goals	Target	Indicators
Goal 2: Achieve universal primary education	Target 3. Ensure that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling.	6. Net enrolment ratio in primary education (UNESCO).
Goal 4: Reduce child mortality	Target 5. Reduce by two-thirds, between 1990 and 2015, the under-five mortality rate.	13. Under-five mortality rate (UNICEF-WHO). 14. Infant mortality rate (UNICEF-WHO). 15. Proportion of one-year-old children immunized against measles (UNICEF-WHO).
Goal 5: Improve maternal health	Target 6. Reduce by three-quarters, between 1990 and 2015, the maternal mortality ratio.	16. Maternal mortality ratio (UNICEF-WHO). 17. Proportion of births attended by skilled health personnel (UNICEF-WHO).
Goal 6: Combat HIV/AIDS, malaria and other diseases	Target 8. Have halted by 2015 and begun to reverse the incidence of malaria and other major diseases.	21. Prevalence and death rates associated with malaria (WHO). 22. Proportion of population in malaria-risk areas using effective malaria prevention and treatment measures (UNICEF-WHO). 23. Prevalence and death rates associated with tuberculosis (WHO). 24. Proportion of tuberculosis cases detected and cured under DOTS (internationally recommended TB control strategy) (WHO).

Source: Authors' elaboration.

1.1 Implications for Reaching MDGs (on time or at all)

Governments and donor agencies have allocated much attention and resources to monitoring progress towards the MDGs. The MDGs look at poverty and its eradication in a multidimensional and comprehensive way. In this context, poverty is defined not only as the absence of income but also the absence of education, health, nutrition, and sanitation. In order to achieve the MDGs—such as halving income poverty, providing universal access to primary education, and improving the health of women and children—development theory and practice must better explore the underlying causes of poverty in its broadest sense. In this sense, it is important to recognize that just as under-registration is strongly linked to poverty, the inverse relationship also holds, linking poverty to under-registration.

According to an econometric study on the under-registration of births in Bolivia, Brazil, Colombia, Peru, and Nicaragua by Duryea, Oligati, and Stone (2006), solving the pervasive problem of under-registration is central to poverty reduction, since children and adults without legal identity are often denied access to health, education, housing, nutrition, and many other benefits guaranteed by public poverty reduction policies. This study shows that children from low socioeconomic backgrounds face higher risks of being unregistered from birth to the age of five. These findings, carried out with a different methodology than the qualitative case studies described herein, highlight the fact that poverty and under-registration are strongly connected to each other.

Consequently, registration of children and adults, as well as the timely reporting of vital events, are key issues for reaching the MDGs on time and should be of concern to the countries as well as those involved in international development. As mentioned previously, certain MDG targets will be difficult to reach without solving this issue. For example, the success of reaching MDG Target 11, which calls for significant improvement in the lives of at least 100 million slum dwellers by 2020, will depend on the proportion of households with access to secure tenure. However, access to secure tenure for those who lack identity documents is virtually impossible.

1.2 Civil Registration and Democratic Governance

How is civil registration as a development issue connected to concepts of citizenship or democratic governance? The following section presents definitions of terms of democratic governance, citizenship, and legal identity and how they relate to civil registration—or lack thereof—a conceptual linkage that has not been well-defined in existing social science literature. The point of view herein has not only been influenced by the academic definitions presented in the first part of this article, but is to a great extent the result of experience in development projects on under-registration.

2. THEORETICAL BACKGROUND

This section discusses how three central concepts— democratic governance, citizenship and legal identity—relate to civil registration. What makes a person a citizen? First of all, one's country of birth guarantees a name and a nationality as first steps to secure legal identity, when registered through the appropriate channels. But any kind of registration—not only civil registration—assumes the existence of a state capable of carrying out the most basic functions of government.

The existence of a *government* only is not sufficient for a state to be able to provide basic services to its citizens; *governance in how these services are provided* is also necessary. The extensive debate about what constitutes governance—broadly defined as the functioning, capacity, rules, and institutions of the public sector—reflects not only the complexity of the concept but also the evolution of political processes (politics), including decision-making processes in many countries of the world. Thus, governance should be understood as a concept in progress that is also part of political processes (Abdellatif, 2003). This idea will be revisited later, since it is not only the decision-making efforts of *government* that are important, but also the stable and persistent leadership of a *state*, which remains in force even if the head of government does not. In other words, not only should *government policy* contribute toward the making of a state, but *state policy* should also create a political reality with and through a more sustainable implementation process and *vision of governance*.

Merilee S. Grindle (2007) gives a concise overview of (good) governance and its many interpretations by development institutions and authors. Notably, only one such interpretation, namely the one used in a DFID strategy paper in 2001, seems to explicitly include individual *citizens*. DFID defines governance here as “how the institutions, rules, and systems of the state—the executive, legislature, judiciary, and military—operate at the central and local level and how the states relates to individual citizens, civil society, and the private sector” (Grindle, 2007: 556). In order to theoretically connect citizenship and legal identity, a working definition of governance should not only address the institutional side of the state, but also the needs of the citizenry.

This dimension can be found in a definition of governance used in the United Nations Development Programme (UNDP) Human Development Report (2002), which uses the term *democratic governance* and defines this as governance promoting human development. Concepts of both governance and good governance consider efficient institutions and a predictable economic and political environment to be necessary for economic growth and effective functioning of public services, however “the concept of democratic governance concerns political freedom and human rights, and removal of discrimination as central objectives” (Abdellatif, 2003: 10). Therefore, the concept of democratic governance is a central element when linking legal identity to citizenship and state institutions.

Both state and society dimensions are crucial for the definition of democratic governance in relation to legal identity. The act of birth registration is the first step in the state-citizen relationship. The birth certificate is the most basic credential for being able to claim citizenship—and human—rights regardless of one’s country of birth. In 1948, the General Assembly of the United Nations (UN) adopted the Universal Declaration of Human Rights. Article 15 of this declaration states that “everyone has the right to nationality.”⁵ In 1966, the UN defined this human right further in the UN International Covenant on Civil and Political Rights (ICCPR). The second clause of Article 24 of the ICCPR states “[every] child shall be registered immediately after birth and shall have a name” (UN, 1994). The state of not being registered or being legally nonexistent is basically a violation of a fundamental human right. Thus, the UN concept of democratic governance addresses the human rights dimension, which is not the case for most other (good) governance definitions.

⁵ Universal Declaration of Human Rights: <http://www.un.org/Overview/rights.html#a14>.

How can a civil registration system be viewed from a democratic governance point of view? As is the case of many other public services, a civil registration system should be composed by three basic elements of good governance:

1. Transparent, democratic, and capable *institutions*;
2. A clear and multilaterally accepted regulatory *framework*; and
3. *Effective political processes*, including negotiation and communication, to achieve a certain degree of implementation.⁶

Reaching beyond these three concepts, two other elements can be considered as relevant to working definitions of democratic governance concerning civil registration:

4. Public trust in institutions; and
5. Institutional respect for inclusive citizenship.

Why are two additional elements necessary? Public trust goes beyond the political realm and may be considered as a part or an outcome of a social process towards overall satisfaction with political authorities and circumstances. Trust towards institutions is particularly important in terms of civil registration since historical and actual experiences that generate mistrust among the public because of data abuse may become a major barrier for future processes.⁷

Latinobarómetro, a statistical survey of public opinion carried out annually in 18 Latin American countries, asks respondents how much confidence they have in certain groups and institutions—for example, the fire department, the national church, their neighbours, as well as the president, the government, etcetera (Latinobarómetro, 2007). In general, Latin Americans have high levels of trust in people they know, that they are “close to,” and with whom they had a positive type of interaction—namely, the church, the fire department, the radio, their neighbours, etcetera. However, they have low levels of trust in political parties, Congress, the Judiciary, and government institutions in general. Thus, the degree of trust that RENIEC (*Registro Nacional de Identificación y Estado Civil*), a civil registration institution in Peru (discussed in further detail later), has generated among the public is surprising. In a 2006 survey, public users of RENIEC in

⁶ This is a modification of the definition of governance used in the UNDP Human Development Report 2002 with three elements, namely public institutions, rules, and political processes. The description of the term governance applied here is far from complete. For further reference, see also Abellatif (2003), Kaufmann and Kraay (2007).

⁷ Mistrust in civil registration institutions is often historically motivated, not only in Latin America but worldwide, given innumerable examples of abuse of personal data, for example in the Third Reich, during the genocide in Rwanda, and in form of abuse of personal data for commercial reasons (Seltzer and Anderson. 2001).

Peru, a country where 81 percent of the population are Catholic, responded that they trust the civil registration agency more than the Catholic Church.

What about the fifth element mentioned above, institutional respect for inclusive citizenship? The third element, political process, can only fulfil and contribute to democratic governance if it is characterized and safe-guarded by institutional respect towards citizenship as an inclusive and nondiscriminatory concept. By adding this fifth concept, emphasis is added towards the institutional need to account for social inclusion when thinking about civil registration.

2.1 Democratic Governance and Its Relevance for Civil Registration

Civil registration systems in Latin America and the Caribbean are, in many instances, examples of bad and undemocratic governance. They have been found to be corrupt and to lack both transparency and sufficient resources—financial and human—at the federal, state, and municipal levels. Such weaknesses, as well as the systems' inadequate administrative and financial structures and noncompliance with the regulatory frameworks required for democratic governance, are among the reasons why many people lack legal identity in the LAC region. Furthermore, insufficient mechanisms for negotiation and strategic communication between public institutions, compounded by lack of interinstitutional cooperation—such as communication among the hospital where the child is born, the civil registration office, the institute of national statistics, and the civil identification institution where the identity card can be obtained—will often result in incomplete and/or late civil registration. In this inefficient environment, underpaid officials are often tempted to extract bribes from individuals—for example, by accepting money to bypass the queue or correct errors (sometimes introduced by the same official) in their registration documents that should be fixed free of charge

In the case of Latin America, the normal form of legal identification is a national identity card, and in most cases these cards are equipped with certificates that contain biometrics as a safeguard to authenticate the identity of the cardholder. National legislation dictates the age of issuance of the national identity cards; in some countries, the card is issued shortly after birth, while in others it is issued much later, at 16 or 18 years of age. Considering that multiple organizations may be involved in providing legal identity for citizens from the first moments of

life until adulthood, the process of obtaining identity documents is often complex and cumbersome, especially if the registration occurs after the period for registration as defined by a country's laws. Also, once multiple actors become involved in the process, instances of mistakes, omissions, or negligence can become more frequent.

Consequently, if there is no overarching and independent supervision in place that addresses civil registration as the starting point of an organized civil status process, much can go wrong, from staff making incorrect entries by accident to full scale identity theft. It is the responsibility of the state by way of civil registration and identification to grant each citizen an identity and protect it. The systems in the LAC region could benefit from streamlining by way of updating the legal framework, modernizing the administration, and strengthening their institutional capacity. This point will be illustrated in a later section with some empirical examples from the region.

Many citizens lack legal identity and documents because of insufficient financial resources for registration services and, consequently, inadequate service coverage, especially in remote areas. From a budgetary perspective, this also means that unregistered citizens do not pay income or payroll taxes and thus governments have less means to repair critical holes in the tax system.⁸ Moreover, if considerable numbers of citizens are unable to exercise their rights to vote and/or be elected to office, it will be difficult for a modern nation state to reach a higher degree of democratization.

On the other hand, citizens may encounter certain barriers to access to public services because they have no legal identity. Poor people often lack the financial means to cover the indirect costs (as well as opportunity costs) associated with obtaining a civil registration document. Some citizens simply cannot or are not empowered enough, for whatever reason, to demand a legal identification document, a phenomenon that will be referred to later as lack of “citizenship demand.”⁹

⁸ Under-registration and the lack of documentation are clearly related to conditions of exclusion and poverty, and there are people who do not have the capacity to pay income taxes, as they have little or no earnings. Notwithstanding, it can be assumed that people that participate in the informal economy would have the capacity to pay such taxes.

⁹ The terms of “supply” and “demand” in the context of civil registration goes back to research undertaken by Dwight Ordonez and Patricia Bracamonte Bardález (2006) for the IDB, comparing the different demand and supply needs regarding civil registration in order to cope with undocumented citizens in seven Latin American countries.

2.2 Citizenship and Civil Registration

Citizenship is a status which suggests a basic social and political attachment to a country and which implies political rights and duties, as well as certain privileges. Being unregistered or undocumented has severe implications for the civic, political, and social citizenship rights of an individual, namely the “trinity of citizenship” as defined by T.H. Marshall in 1950. The following definitions of civic, political, and social citizenship rights follow Marshall and Bottomore (1992).¹⁰ Civic citizenship rights, which are indispensable for individual freedom and equality before the law, cannot be accessed without proving the legal existence of a citizen; thus being unregistered at birth often has the impact of lifelong exclusion as an adult. Political citizenship rights cannot be exercised without legal identity, as voting and being elected can only be granted to somebody who is a bona fide citizen of a state. Lastly, social citizenship rights—the rights to have equal access to any kind of social welfare or services such as health care, education, pension, and poverty reduction benefits—will be restricted since access to such services is connected to a formalized legal existence.

Even if some of the rights mentioned by Marshall apply to adults only, since voting or being elected is usually permitted at the age of 18, registration at birth is the precondition for being able to claim citizenship rights during most of one’s lifetime. A birth registration document is the first and founding document of a chain of rights that should be gradually granted in one’s lifetime. Ideally, every child should get registered at birth and thereby have automatic access to all citizenship rights. However, in reality this does not always happen. Without a birth registration document, access to all other documents such as passport and drivers license will be either denied, complicated, or associated with administrative or legal costs.

Table 2 illustrates instances where unregistered individuals would come into contact with the public system and thus be required to prove their identities. These points of contact also represent opportunities for the registration of undocumented individuals into the civil registry system, where all citizen records are kept.

¹⁰ This work refers to the first definition of the trinity of citizenship rights by Marshall in 1950 in England.

Table 2. Points of Entry for Individual into Civil Registry

Vital Events	Civic Events and Rights	Social Rights and Benefits
Death Marriage/divorce Adoption Birth	Military service Voting	Health system Education system Pension benefits Conditional cash transfer programs

Source: Authors' elaboration.

In order to obtain and demonstrate the basic social and political attachment between a citizen and a state, a contract—namely a social contract—must be in place. This contract is the entry of the person's birth into the civil registry. Only when the contract is in place can the person exercise his or her citizenship. This goes back to Rousseau's social contract theory of 1762, a concept used in philosophy, political science, and sociology. The theory denotes an implicit agreement within a state regarding the rights and responsibilities of the state and its citizens, or more generally, a similar concord between a group and its members or between individuals. The interconnection of civil and social rights exists insofar as civil rights are the contractual basis of social rights. Without civil rights, no social rights can be granted. Without legal identity, social service provision will be impeded. The granting of a valid social contract presumes not only that the state grants the rights, as well as access to these—thus granting service supply within a state's system—but also that the citizens demand rights, responsibilities, and choices. Social contract theory—or contractarianism as outlined by Rousseau, Hobbes, and Locke—laid the theoretical foundation for the modern definition of democracy and citizenship. More than 200 years after the original contribution of the social contract theory by Rousseau, John Rawls (1971) referred to this famous framework and developed it further with placing emphasis on distributive justice in his work *Theory of Justice*.

According to social contract theory, citizens need to identify themselves as such in order to have not only access to social services but also the voice to demand them accordingly (Mohanty and Tandon, 2006). *Thus, legal identity is not the same as citizenship but the prerequisite for it.* Academic literature does not connect citizenship to legal identity in the way that would be relevant for the discussion herein.

2.3 Legal Identity

How is legal identity defined? Before turning to the combination of the two terms *legal* and *identity*, the following structure might help to understand identity on its own better. The identity dimension of a person can be understood as the unique attributes of an individual that makes him or her different from all other individuals. These dynamic attributes can be defined as name, personality, physical characteristics, biological profile, and social expressions—such as political orientation, citizenship, and language. Then there are the identification dimensions, which are the static attributes of a person such as biometrics, fingerprints, iris formation, and DNA.

Legal identity has not yet been theoretically defined and discussed in social science literature. Yet, it is arguable that the combination of the identity and identification dimensions of a person within institutional and judicial frameworks provided by the state will grant an undeniable civil legal status, or *legal identity*. In development practice, the concept of legal identity has already been addressed. For example, the Asian Development Bank (ADB) carried out three case studies on legal identity and its relationship to social inclusion in Bangladesh, Nepal, and Cambodia. In one publication, legal identity is broadly defined as “a human being’s legal (as opposed to physical) personality. Legal identity allows persons to enjoy the legal system’s protection and to enforce their rights or demand redress for violations by accessing state institutions such as courts and law enforcement agencies. Proof of one’s legal identity consists of official, government-issued and recognized identity documents that include basic information attesting to the holder’s identity and age, status and/or legal relationships” (ADB, 2007: vii).

Legal identity is the combination of identity and identification, two terms that are often confused but that should be taken separately. Legal identity can be seen as sequencing the attributes explained above: initially, an *identity* with unique dynamic attributes given at birth and stated in the birth registration document, and followed by—at a time defined by each country’s legislation—*identification* as the processing of unique personal information data into biometric format (in the national identification card or the passport, for example) once a person grows older.¹¹ Having a legal identity recognized by society confirms a person’s citizenship and civil rights by providing protection and access to basic social, economical, and political rights.

¹¹ Biometrics is the automatic identification or identity verification of individuals on the basis of behavioral or physiological characteristics (National Research Council of the National Academies, 2003).

The concept of Identity Management (IdM) or the secure management of one's identity, the identification process, and the information associated with the identification is slowly but securely gaining recognition and traction in Europe and, to a certain extent, in the United States. IdM provides standards and guidelines for secure management of personal identification data and facilitates the verification and authentication of identities.

What is the significance of the act of birth registration in this context? It can be defined as the basis for ensuring unique identification of the individual, thus providing him or her with a unique legal identity. Without birth registration, there is no guarantee that the same unique person may be recognized as such in later stages of life. Additionally, each act of birth registration signifies a key piece of information for the vital statistics systems of any given country.

The conclusion of the first part of this article is that it is important to look at the terms democratic governance, citizenship, and legal identity from two perspectives, which should be in economic and political balance: the government state side, which represents public supply of services (civil registration), and the side of citizens' demands, which means that citizens are allowed and supposed to claim access to citizenship rights towards the state—including an identification document that technically enables citizens to access their rights (voting, banking, health and education services, etc.).

In the theoretical discussion herein, this duality has been reflected in the different elements of governance, with an emphasis on the term “democratic governance.” In reference to this understanding of democratic governance, it is possible to consider identification as a democratic governance issue, since it is denoted by its importance towards both citizenship and state legitimacy (thus including the state and civic dimension).

It has also been pointed out that questions of identification and identity are issues not only relevant for a state's policy planning, vital statistics, and tax revenue but also for the political, social, and economic inclusion of individual citizens into society. If these two-sided processes and their duality are thought of in a simultaneous way, it will most likely increase the degree of (democratic) governance of a state and lead to more inclusive social development. Kofi Annan (2005: 47) states that “the protection and promotion of the universal values of the rule of law, human rights, and democracy are ends in themselves. They are also essential for a world of

justice, opportunity, and stability. No security agenda and no drive for development will be successful unless they are based on the sure foundation of respect for human dignity.”

Keeping the definitions and arguments in the first two sections in mind, the following section turns to more empirical details and hereby illustrates what IDB research has evidenced about barriers related to supply and demand structures of civil registration.

3. PRACTICAL DEBATE: EXPERIENCES FROM FIELD RESEARCH IN THE LAC REGION

Since 2004, the Bank has been carrying out a series of country assessments to identify and qualify the problem of undocumented LAC citizens (see Figure 1), and has recently published the reports on the findings.¹² The objective of the research is to apply the findings to project design by incorporating integral approaches to reduce the instances of undocumented citizens in the region. This has already been done in several countries.

¹² The information in this section stems from still unpublished IDB research undertaken in the following projects led by Mia Harbitz: Technical operations ATN/SF-10196-RG, ATN/NS-8915-RS, and ATN/NI-10232-RS. The authors of this working paper are grateful to the research contributions of Dwight Ordonez, Patricia Bracamonte, Cassio Turra, Laura Wong, Maria del Carmen Tamargo, and others.

Figure 1. IDB Country Assessments



Source: Authors' elaboration.

3.1 Consequences of Under-Registration: Barriers to Access

These country assessments, which mostly focus on the implications of lack of documentation, reveal that the main difficulties in accessing civil registration and identification are based on economic, legal, administrative, geographic, and cultural barriers and internal conflicts. The elimination of barriers have to be addressed by governments in order to facilitate universal

registration, and it should be noted that LAC countries have already demonstrated good practice examples by targeting both the supply and demand side of the problem.

The initial findings from these assessments support anecdotal evidence from social protection programs, such as conditional cash transfer programs, which confirms that undocumented citizens are found among the most disenfranchised groups and communities. Table 3 illustrates the populations, in a selected group of countries, with higher risks of exclusion because they lack legal identification.

Table 3. Populations with Higher Risk of Exclusion Due to Lack of Legal Identification

	ARG*	CHI	COL	ECU	GUA	HON	NIC	PAN	PER
Rural population	X	X	X	X	X	X	X	X	X
Indigenous/ Afrodescendant population	X		X	X	X	X	X	X	X
Internally displaced population			X		X			X	X
Population residing in border areas	X	X	X	X	X	X	X	X	
Foreign population/ illegal immigrant	X	X		X	X			X	
Children born out of wedlock			X			X	X		X

*ARG: Argentina; CHI: Chile; COL: Colombia; ECU: Ecuador; GUA: Guatemala; HON: Honduras; NIC: Nicaragua; PAN: Panama; PER: Peru.

Source: Ordonez (2006); Tamargo (2007).

In many cases, in the populations referred to in Table 3, social exclusion was due to a number of factors, among them lack of identification documents and already existing situations of (extreme) poverty. In the context of these country assessments, exclusion is defined not only by the absence of financial means but also by a lack of access to health, education, nutrition, and other benefits, thus linking exclusion and access to citizenship rights as a new analytical dimension. Clearly, based on this analysis, having a birth registration document offers individuals more opportunities to escape from poverty.

Based on these country assessments and initial project operations, a dialogue among key actors is necessary to provide feedback to both existing theory and future operations and project

design. Since current research has already identified the more detailed implications of lacking a legal identity (problematic access to citizenship rights and thus implications for access to social programs), the origins and causes of the problem (institutional dimension) should be further investigated. A look into the structure, organization, budget, and management of civil registration institutions—the supply side of civil registration—brings to light the need for ground-breaking modernization processes in many countries of Latin America and the Caribbean.

3.2 The Supply Side of Civil Registration

When developing projects to address legal identity, on the supply—or institutional—side of civil registration, several issues should be discussed. Here, the most pertinent ones are presented.

Legal Framework: On an institutional level, the legal framework that pertains to civil registration and identification is in need of revision in a number of countries, because it often hails from a time when personal data and biometrics were neither stored in an electronic form, nor shared or linked. Moreover, no considerations were in place to protect citizens from invasive or abusive use of personal data. Identity management is a rapidly evolving concept that deals with the interoperability of fragmented public sector agencies, such as linking civil registration with vital statistics to improve public policy design. The use of biometrics as a unique identification parameter is on the rise, and the identification systems must be designed such that the verification procedures do not violate a person’s privacy or compromise his or her national and civic security rights. Although the concept of identity management does not form part of the objective of this paper, it is an area that needs to be further investigated to better understand how it can be put into operation.

On the programmatic level, another problem that has been identified is the late registration of children, which in many countries implies additional costs in the form of fines and legal fees. A child’s access to health and education programs is an important point of entry where the presence or absence of a birth registration document becomes an issue. It is precisely in these moments where health care and educational institutions should be legally allowed to be more flexible and to accept children, even if the legal grace period of registering a child might

have already passed. In Latin America and the Caribbean, most legislation allow between four and six weeks for a child to be registered. At any point beyond this legal grace period, birth registration becomes more complicated, costly, and lengthy, and in some cases too onerous, especially for poor citizens. Governments should make exemptions and should bear this issue in mind when designing reforms of the legal framework for civil registration and identification.

Table 4 illustrates the grace periods for free registration in selected countries, as well as the registration procedure and fines after the these periods expire, which in the majority of the cases follow administrative rather than judicial processes.

Table 4. Late Registration Periods and Procedures

	ARG	CHI	COL	ECU	GUA	HON	NIC	PAN	PER
Grace period for free registration of birth (days)	40	60	30	30	60	365	365	15	30
Registration procedure after grace period	Adm					Adm	Adm	Adm	Adm
Fine		No	No	No	Yes	No		No	No

Source: Authors' elaboration.

The Institutional Location of Civil Registration Entities: The civil registry entities of most LAC countries are not autonomous institutions, but are administratively ascribed to line ministries or the electoral bodies. There are many implications of such arrangements for an entity that in practice should provide information and interconnect many different institutions in an independent way.

Institutions and their structures play important roles in shaping policies and democratic governance processes. This also holds for civil registration institutions in the region. Table 5 illustrates the structural differences of civil registration organization in most of the LAC countries.

Table 5. Institutional Location of Civil Registration Agencies in the LAC Region

Ministry of Justice	Electoral System	Autonomous	Other
Brazil	Bolivia	Honduras	Argentina (Ministry of Government or Justice, depending on the province)
Bahamas	Colombia	Peru	Guyana (Ministry of Home Affairs)
Barbados	Costa Rica	Guatemala	Jamaica (Ministry of Health)
Belize	Dominican Republic	El Salvador	Mexico (Secretariat of the Interior)
Chile	Nicaragua		Suriname (Ministry of Home Affairs)
Ecuador	Panama		Uruguay (Ministry of Education)
Haiti	Venezuela		
Paraguay			
Trinidad and Tobago			

Source: Authors' elaboration.

When the civil registry is situated within a ministerial institutional framework, political and financial priorities can be very different from—and even at odds with—the mission of a civil registry. Without independence from the political arm of government, a civil registry is at risk of a high turnover of personnel with every new government that assumes power; the consequence of constant personnel changes is of great concern for a civil registration system that should be autonomous and nonpartisan. Another risk that is inherent in the nonautonomous systems is the risk of manipulation and malfeasance for rent-seeking purposes or political manoeuvring.

Only four countries in the LAC region have autonomous civil registration institutions, namely El Salvador, Peru, Honduras, and Guatemala. While both Guatemala and El Salvador are in different stages of modernizing and strengthening their civil registration and identification agencies, Honduras is in the process of defining how its autonomous civil registry might be able to take advantage of this exceptional role, and RENIEC has already solidified its role as autonomous institution in Peru.

On the basis of these arguments, the following examples demonstrate how citizenship and governance problems in the context of civil registration have been identified through IDB research and how the problems were addressed in each particular case.

Budget Considerations: The civil registration agencies by and large generate little revenue and most of their funding is allocated from the national budget. With rising demands for universal, safe, and efficient civil registration, that in turn is the basis for issuing a national identity card to ensure a unique legal identity, a close look at the economic and financial sustainability of civil registries must be addressed.¹³

First, free universal birth registration presumes that public supply or budget of civil registration is available in order to realize an administratively complex task. Unfortunately, civil registration offices in the LAC region are often insufficiently equipped, staffed, and trained. Public budgets are tight and civil registration systems in LAC could likely provide better services if they would diversify the source of their funding to cope with financially precarious situations. Major investments must be made to equip and interconnect civil registry offices and train the registrars.

Another consideration is that civil registration implies direct and indirect costs that create and reinforce barriers, especially for poor people. What should be discussed before deciding if a civil registration or identification document can and shall be free from charge for the poorest citizens? The national civil registry and identification organization (RENIEC) in Peru, for example, receives only a small portion of its overall budget from the central government. A big part of its revenue comes from self-generated resources of the civil registration process itself. The first birth certificate is free from charge, but the national identification documents and their renewal involve fees. The Peruvian national identity card is also a voting card and has to be renewed every eight years. RENIEC has established fees for these and other services. Poor citizens, persons with disabilities or special needs, and persons above 65 are exempt from all costs. Employees at RENIEC opined that in a modern, consumption-oriented society, cost-free goods and services seem to have little or no value. Thus, the tiered fee-system seems to work well in Peru.

A system that provides universal access to birth registration is certainly of great value, but international donors should more thoroughly analyze both the budget constraints and the cost issue (direct and indirect) for the poor and others with special needs.

¹³ As mentioned earlier, national identity cards are the norm as far as identification in Latin America, as in many other countries around the world. In the context of interoperability of electronic identities, the European Union and other European country are planning to introduce new identity cards in 2010.

Flexible Civil Registration Administration: In order to reach poor and already excluded citizens, civil registration systems—for example in Ecuador, Colombia, and Peru—address geographical and cultural barriers by offering more flexible hours and sensitive, tailor-made mobile civil registration services either via boat (especially in the Amazon), plane, or truck. Due to the existence of indigenous languages, there is a strong need for culturally aware civil registration campaigns—for example via (community) radio—, and staff. The staff should be aware that many of the citizens, especially women who are often the heads of household, may not read or write in either the official or their indigenous language.

Many countries carry out registration campaigns and drives, and although the campaigns may boost registration in the targeted area while they last, it is difficult to sustain the effort over time. A successful example of campaigning is in Chile, which has annual expeditions to the remotest areas of the country to register civil events and issue identity cards.

3.3 The Demand Side of Civil Registration

On the demand side of civil registration, the following issues should be considered that might be addressed in conjunction with some arguments raised on the supply side and vice versa.

Strategic Communication Campaigns: Awareness-raising campaigns may temporarily raise the level of birth registrations and consequently the percentages of adult registration, but these campaigns should be timed, coordinated, financed, and organized in a way that allows a long-term impact. Rather than specific or random campaigns, civil registration campaigns should be planned strategically and promoted in cooperation with civil society organizations that are closer to the needs of local people, their languages, and cultural traditions. A DFID project in Bolivia is a case in point, where civil society organizations became an integral partner in promoting civil registration (DFID, 2002).

Civil registration campaigns that are strategic and have long-term perspectives will increase the level of general awareness in society and demonstrate that civil registration is necessary and important. With the increased need for proof of legal identity, the incentive for

complying with and completing civil registration processes should become increasingly clear and accepted with rising awareness.

Diversify Services through Alliances: In order to reach remote areas, it is equally important to develop strategies that diversify the support structure of civil registration with the help of local NGOs, churches, and community organizations. This has been the case in Nicaragua, an example highlighted later. Local organizations, such as the municipality, the church, or any other community organization, play important roles in encouraging and facilitating that process of civil registration for events such as birth, marriage, divorce, and death. In some countries, midwives and other individuals trusted by the community have been trained to register births and other civil events as an approach to increase the rate of registration.

4. CONCRETE EXAMPLES FROM THE FIELD

While most LAC countries have clearly identified the barriers and difficulties they face with regards to reaching universal birth registration and citizen identification, the ability to provide legal identity to all citizens represents additional administrative and budgetary challenges beyond their resources. Many countries have addressed these challenges with innovative actions, as illustrated in Table 6. All the countries in the LAC region have legislation that grants free birth registration within a nationally defined number of days after birth. Several countries have mechanisms or programs in place that specifically address the removal of barriers and facilitate access for all citizens. Table 6 presents good practice examples from selected countries in the region that target both the supply and demand side of civil registration.

Table 6. Innovative Civil Registration Practices in the LAC Region

Mechanisms or actions to mitigate registration supply	ARG	COL	CHI	ECU	GUA	HON	NIC	PAN	PER
Subsidy mechanisms in place for indigents	X		X	X	X				X
Introduced unique personal numbers	X	X	X		X	X			X
Creation of specialized units within the civil registration systems to attend excludes and vulnerable populations	X	X	X		X				X
Mobile registration units intended to reach the most isolated communities	X	X	X	X	X		X		X
Civil registration facilities in hospitals	X	X	X		X*		X		X
Use of the unique personal identification number on birth certificate providing a link to all identity documents.	X	X	X		X*	X			X

* Not yet implemented at the time of publication.

Source: Ordonez (2006); Tamargo (2007).

What can be inferred from these tables and what implications could this have for both donors and governments in the LAC region? It might be helpful to structure actions that support civil registration into demand and supply-oriented actions. In this way, either social programs or state modernization projects could address these actions as part of a multidisciplinary learning process in development operations.

4.1 Country Experiences

PAININ, Nicaragua: Diversification of Actors: Nicaragua is an interesting case in point, not only to show how citizenship problems such as access to health and education services may have implications for development, but also how they may be addressed with the help of local NGOs. There is no official rate of under-registration at birth available, but estimates from different sources have displayed rates between 25 and 40 percent, with wide geographical variations. In 2000, a study conducted by the Save the Children Fund estimated that in the departments of the Atlantic Coast, about 38 percent of children below the age of 18 were not registered. Without a birth registration document and, consequently, without a personal identification document, one cannot access the formal labour market. Another consequence in Nicaragua is that one cannot travel freely by plane from the Atlantic Coast to Managua without identification. Although the poorest people rarely travel on planes, it may be necessary, for example, for transportation in emergency medical situations. The same is true for domestic travel in other LAC countries as well. This violates the human right of free movement.

Further empirical studies from Nicaragua and other countries of the region indicate that children, even if they are able to enrol in primary school, are not able to officially finish high school and ask for a degree because of a missing birth registration document. This means that a host of young people in Latin America in principle are qualified for a range of jobs, but might be either hindered in being paid the market salary or in advancing with their careers.

The social assistance and poverty reduction program PAININ (*Programa de Atención Integral a la Niñez Nicaragüense* or Program for Integrated Assistance to Nicaraguan Children) is an example of a program that addresses the problem of undocumented children. PAININ is financed by the IDB and executed by the Family Ministry, whereas the project activities are carried out by NGOs; these organizations are in charge of the provision of some services regarding nutrition, health care, and children's education. As part of the contract between the NGOs and the ministry, the NGOs that provide these services are also expected to undertake actions to increase the number of children registered at birth by informing mothers, as well as by encouraging and assisting with late registration through civil registration campaigns organized together with municipalities (Ordonez, 2006). The Nicaraguan Civil Registry (*Registro Central*

del Estado Civil de las Personas de Nicaragua) actually facilitates registration, but PAININ will pay for legal assistance to complete the civil registration if necessary.

The example of PAININ not only illustrates the importance of the diversity of actors involved in civil registration, but also that civil registration can be an integral part of a long-term government program with sustainability. Going back to the desirability of democratic governance elements outlined in the first part, the Nicaraguan experience especially epitomizes that capable state institutions (the first governance element) are not only *de jure*, but also *de facto*, respectful towards citizenship rights in a socially inclusive way (the fifth governance element).

RENIEC: Autonomous and Sustainable: RENIEC was created in 1993 after the Peruvian State approved a new political constitution. RENIEC is a specialized autonomous organization responsible for the registration of all acts and events related to the civil status of a person. It is also in charge of the identification of Peruvian citizens. Their achievements have been notable, especially based on the major changes that have taken place in the late 1990s and first decade of the 2000s.

The cornerstone of this system hinges on its autonomy, which allows the institution to design its organic structure according to its own technical needs rather than remain at the mercy of political amends or whims. RENIEC successfully developed and implemented a national plan for the restitution of identity as a result of a final report generated by the Truth and Reconciliation Commission. This commission was established in 2001 to investigate events that took place during the internal conflict in Peru, which spanned two decades. During this period, an estimated 70,000 people were killed or disappeared, and many were internally displaced. Moreover, local registration offices, along with the registration books, were burned completely or vandalized, which left a number of individuals without documentation and consequently extremely vulnerable.

RENIEC has undergone important institutional transformation since its creation, and it is now recognized as one of the most efficient, sustainable, and transparent civil registries in the region. This success has been achieved not only through significant investment and use of technology, but by the extensive training and professionalization of the staff, which has contributed to the overall institutional strengthening processes. In fact, RENIEC stresses so much

on training that it has created its own training institute (*Centro de Altos Estudios Registrales, CAER*), which provides online training as well as training in classrooms for all levels of staff.

The overall structure is such that the National Judicial Council (*Consejo Nacional de la Magistratura, CNM*), which is also an autonomous entity, elects the registry chief for a four-year period.¹⁴ This council can ratify the registry chief for one additional period. RENIEC manages its own budget and receives a part over the national budget to cover its operational expenses. It generates its revenue by charging a fee for most of its services.

The institution has undertaken strategies and actions to notch the under-registration rate in Peru, thus facilitating social and political inclusion. Through its effective quality control policy and standardized procedures for civil registration, RENIEC has been granted a Quality Certification issued by the *Société Générale de Surveillance (SGS S.A.)*, which provides inspection, verification, testing, and certification services, along with new technologies and IT systems. This certification, which is under constant external verification, acknowledges the quality of the data stored in RENIEC that guarantees the legal security of the Peruvian civil registration documents and, therefore, the legal identity of Peruvian citizens. In 2008, RENIEC obtained ISO 9001 certification for its quality management system for civil registration.

Throughout the last five years, RENIEC has expanded the reach of its services to get closer to the denizens, not only by setting up more offices but by travelling to and providing services to the most remote areas of Peru and by offering services using the internet and other communication methods. As these actions have helped RENIEC reach the neediest and most marginalized populations, public confidence for the institution has grown over time.

It is notable to acknowledge that RENIEC has earned the government's Good Practice Prize in four consecutive years. The prize is given on the basis of optimization of services for citizens that include speed and accessibility. A contributing factor was in this selection was also RENIEC's adaptation of adequate infrastructure to improve customer service through the introduction of comprehensive registration offices, auxiliary registry offices in the public hospitals—where children obtain their birth certificates and first identification cards without cost—, free call centres, home service for handicapped people, banking connection, and campaigns to issue identification documents for free for low income people, among others.

¹⁴ The CNM was created to strengthen the administration of the justice system by electing and ratifying judges as well as heads of autonomous institutions such as RENIEC.

These outcomes show how high quality standards and services for providing identity documents can translate into very tangible improvements in terms of citizenship rights and their access if these rights are understood in their relationship to identification. The named improvements are not only a sign of a highly sophisticated state administration that enables citizens to access their citizenship rights, but also show how ties of the social contract between state and citizens can be reinforced by secure, accessible, and affordable identification documents.

Chile: Highest Registration in the LAC Region: The Chilean Civil Registry and Identification Service (*Servicio de Registro Civil e Identificación*, SRCEI), an autonomous institution within the Ministry of Justice, is among the most sophisticated and integrated registries in the LAC region. Even though SRCEI is institutionally dependent on the Ministry of Justice, it has still managed to develop a solid, effective civil registration and identification system that is interconnected with a number of other registries under its jurisdiction.

SRCEI is administratively decentralized with over 450 offices throughout Chile, and provides services over the Internet. Its mission is to facilitate the rights of the individual by birth registration; certification; and verification of civil events, identity, property, and other specific acts as provided by law, while maintaining confidentiality, excellence, and trust in the service the institution provides.

The main functions of SRCEI are civil registration and to provide identification documents for the citizens of Chile. SRCEI manages 26 different registries in total, to include motor vehicle, organ donations, travel documents, property registry, and penal registries. Birth registration is free, but every subsequent document has to be paid for, which in turn generates income for SRCEI. Since 2002, the Chilean national identity document and the passport have contained biometric information and are machine-readable.

Chile has the highest birth registration rate in the hemisphere (nearly 100 percent), since most of the births occur in hospitals and SRCEI has a presence in most maternity wards. Since 1973, every newborn is awarded a unique identification number, called the RUN (*Rol Único Nacional*), which will appear on every identity document. The RUN is also used for administrative and political purposes such as tax payments, social benefits, and voting privileges. Chileans also use this number in letters to the editor in national newspapers.

As an institution, SRCEI has achieved a level of trust in the population through the delivery of services (documents) that have provided equality before the law for all Chileans and given them access to rights and social and economical services. The importance of public trust in institutions (governance element 4) is the strength of this case, and this element connects to the other governance elements as well (such as respect for inclusive citizenship rights and capable institutions).

Uruguay: Registration as a Vehicle for Social Inclusion

By interconnecting civil registration, vital statistics, and civil identification—and ultimately promoting social inclusion of the most vulnerable populations—Uruguay seeks to improve the social cohesion of the society. The national identity card is a requirement for access to all social and economical benefits in Uruguay. As such, there is an ambitious project underway that will provide a unique identity number for every child at birth, which will be listed on his or her birth certificate and national identity card. Both the birth certificate and the first national identity card are free, and the latter is already being issued as newborns leave the country’s biggest maternity hospital, Rossell Pereira, where an estimated 14 percent of all births take place. The program will be stepped up to eventually cover all public and private maternity wards in Uruguay. Until that happens, parents have to go the nearest branch of the National Civil Registry. This registry is located within the Ministry of Education, whereas the Agency for Civil Identification (*Dirección Nacional de Identificación Civil*, DNIC), which issues the national identity card, is located within the Ministry of the Interior.

When a birth is reported, DNIC generates a unique identity number, which in turn is communicated to the maternity ward and the civil registry. The civil registry in turn communicates all vital events to the Ministry of Health for Vital Statistics as well as to the National Institute of Statistics (INE). The objective of the project is to link the Ministry of Health, National Civil Registry, DNIC, Ministry of Development (MIDES), INE, and BPS (Social Security) in order to verify and authenticate identities and ensure that the right individuals obtain the benefits attributed by law or state-run social programs. The goal is that at least 90 percent of all children will have a national identity card with photo and fingerprints within 45 days of being born. This project transports the civil registration system into the twenty-first century. In addition to the implementation of important technological infrastructure and

communication components, a modernization project of this kind also addresses the human resource situation. The registrars have to adapt to new technology, as well as new procedures, and the Government of Uruguay plans to put staff training programs in place.

What does this operational example illustrate in theoretical terms? It particularly connects to the third element of democratic governance that was raised earlier, namely political processes, including negotiation and communication in order to achieve a certain degree of implementation. Without a clear communication strategy that connects the logistical processes of civil registration between those institutions to be incorporated in the state modernization process in Uruguay, such an undertaking will most likely fail. Whether or not a communication strategy can work amongst differently functioning institutions, such as hospitals or statistical institutes, has much to do with institutional negotiation amongst these state actors, of which each will try to push for its own functional interests. Thus, negotiation, mediation, and communication are much needed modalities, not only during implementation, but also in the agenda setting and project design stages.

Central Challenges for all Countries in the LAC Region: The quality of civil registration depends not only on the individual agency and how it performs on its own, but also on the ability to coordinate joint tasks with other key actors. Among the countries with which the IDB has been in closer contact regarding project development on legal identity, all agreed upon the importance of communication and coordination amongst involved parties. Both are important features for policy planning and implementation in general, but civil registration requires a host of different services provided by different entities with their respective policy dynamics, capability to coordinate, and capacity to communicate.

Certainly, questions in terms of the interagency power structures, diverging leadership styles, politicized administrations, and budget availability present complex challenges for governments. If a state or shared vision of the importance of civil registration is missing, an important right and service might easily become what has been referred to earlier as specific “government policy,” instead of a sustainable “state policy.” For this reason, good and democratic governance features and a system of accountability should become the rule of the game in order to create a sustainable policy of civil registration. An “enabling environment,” as discussed earlier, must have high levels of transparency, historical circumstances allowing for

higher degrees of democratization and democratic governance structures, and highly professionalized services.

5. CONCLUSIONS AND OUTLOOK

This paper aims not only to present new empirical findings on the problem of under-registration in the LAC region, but also to discuss this emerging development problem in connection to both academic concepts and project development. Clearly, legal identity should receive greater attention from development practitioners working in both social programs and institutional capacity of the state programs. While the consequences of under-registration are mostly felt in social programs, causalities are institutionally rooted and should therefore be addressed in conjunction with institutional modernization processes.

As indicated in Figure 1, at different entry points for civil registration, there are multiple opportunities to reach the goal of universal civil registration, not only by working through public sector institutions but also by collaborating with other agencies, such as religious or community organizations, to encourage and facilitate registration. Civil registration and civil identification is the exclusive responsibility of the state, and should not under any circumstance be privatized or carried out by third parties. Civil registries accumulate a great deal of personal information, which could put individuals at risk of identity theft, extortion, or political persecution if it were to fall into the wrong hands. A third party could be tempted to misuse or share information for economic or political gain. Dispute about the ownership of the information may also arise, as seen recently with information about Facebook users.¹⁵ Entities who issue identity documents must be trusted not to put their reputation at risk, which could cause other agencies to doubt the documents and credentials of the citizens.

The approach to address the structural causes of under- or late registration must include the strengthening of the institutional capacity of the agencies themselves. There is a growing demand for a new generation of projects that address the underlying causes of under-registration and protect the unique legal identity of each citizen. The profile of these projects aims to

¹⁵ In February of 2009, Facebook changed general terms and condition without consulting its users, claiming that it would have all rights concerning personal information stored by users, even after they closed their accounts. Such open mandate would have meant arbitrary use and misuse of personal information by third parties without any personal rights of the individual. After numerous protests of users and the public, Facebook withdrew this claim, announcing that it would revise and offer public consultation of its general terms and conditions.

guarantee the veracity of base documents that are the cornerstone of a person's legal identity, namely the birth registration and birth certificate. In the case of Uruguay, explored earlier herein, by electronically connecting the maternity wards with the DNIC, each newborn is assigned a unique identity number. This number is automatically communicated back to the maternity ward, so it can be included on the baby's documents, as well to the civil registry. The number will be connected to the individual throughout his or her lifetime and appear on the national identity card, along with a photo and biometric data (fingerprints) that are electronically captured and stored. This system will also report on vital statistics (births and deaths) and provide verification services to ministries and other state agencies, as well as to the private sector. The main reasons to provide technically and technologically solid verification services are to avoid fraud and corruption and to protect individuals from identity theft.

In order to adequately address the need to provide legal identity for all individuals *sans papiers*, a new type of project framework must be developed that is capable of integrating and connecting the theoretical and academic debate to these new experiences. Some examples from the LAC region have been illustrated herein, where legal identity has been the key to participation and inclusion and has contributed to solidify the democracy, as in the case of Peru.

With the increasing demand for authentication in a number of contexts, it is particularly urgent to develop citizen-centred models that are not overly intrusive and, above all, protect privacy-related information. Since the need for authentication may have its roots in security concerns, it is of particular importance that the agency that regulates, issues, and verifies information is assumed to be fair, impartial, and immune from commercial or political manipulation (National Research Council of the National Academies, 2003). Furthermore, research results from field experiences need to be channelled back into academic research and should contribute to the reformulation of the concepts of democratic governance, citizenship, and legal identity. In turn, the theoretical debate will have to be strengthened and broadened to bring meaning to project design in areas that address legal identity, citizenship, and democratic and good governance.

Beyond the challenges discussed here, there are others that should be addressed in future research and practice concerning the LAC region and others around the world. Certainly, there should be a focus on information security, record safekeeping, ethical handling of personal information, and the provision and management of information communications technology. The

value of universal, continuous, permanent, efficient, and secure civil registration and civil identification is gaining recognition and requirements for safe verification and authentication of legal identification are increasing. In this respect, legal identity stretches beyond a human right or citizenship—or even a development—perspective and also touches on concerns of national security.

This topic is of national, regional, and international concern. In this context, countries must address not only the need for verification but also the need to adequately protect the legal identity and privacy of its citizens in order to avoid abuse, malfeasance, corruption, or fraud. Identity authentication and verification are not ends in themselves, but they are means to provide and protect the unique legal identities of citizens in democratic societies.

BIBLIOGRAPHY

- Abdellatif, Adel M. 2003. Good Governance and its Relationship to Democracy and Economic Development. Global Forum III on Fighting Corruption and Safeguarding Integrity. Presented for the Regional Bureau for Arab States, UNCDP, Seoul.
- ADB (Asian Development Bank). 2007. Legal Identity for Inclusive Development. Asian Development Bank (ADB), Manila.
- Annan, Kofi. 2005. *In Larger Freedom. Towards Development, Security and Human Rights for All: Report of the Secretary-General*. New York: United Nations Publications.
- DFID (Department for International Development). 2002. Consortium Pro Poor Citizen Participation Bolivia. Project Towards an Inclusive Elections Process. Final Report March–August 2002. DFID, Bolivia.
- Duryea, Suzanne, Oligati, Analia, and Stone, Leslie. 2006. The Under-Registration of Birth in Latin America. RES Working Paper No. 551. Research Department, Inter-American Development Bank, Washington, DC.
- Grindle, Merilee S. 2007. Good Enough Governance Revisited. In: *Development Policy Review* 25(5): 553–574.
- IDB (Inter-American Development Bank). 2006. Building Opportunities for the Majority. Inter-American Development Bank, Washington, DC.
- Kaufmann, Daniel, and Kraay, Aart. 2007. Governance Indicators: Where are We, Where Should We Be Going? Discussion Draft October 2007. World Bank, Washington, DC.
- Latinobarómetro. 2007. Informe Latinobarómetro 2007. Banco de datos en línea. Available at <http://www.latinobarometro.org>.
- Marshall T. H., and Tom Bottomore, 1992. *Citizenship and Social Class*. London: Pluto Press.
- Mohanty, Ranjita, and Rajesh Tandon. 2006. *Participatory Citizenship: Identity, Exclusion, Inclusion*. New Delhi: Sage Publication.
- National Research Council of the National Academies. 2003. *Who Goes There? Authentication Through the Lens of Privacy*. Washington, DC: National Academies Press.
- Ordonez, Dwight, and Bracamonte Bardález, Patricia. 2006. Birth Registration. Consequences in Relation to Access to Rights, Social Services and the Implementation of Poverty

- Reduction Programs in Six Countries in Latin America. IDB Project Document. Inter-American Development Bank, Washington, DC.
- . 2009. Implicaciones del subregistro de nacimiento en 7 países de América Latina. Inter-American Development Bank, Washington, DC.
- Plan International. 2005. Universal Birth Registration: A Universal Responsibility. Plan Limited International, United Kingdom.
- Rawls, John. 1971. *Theory of Justice*. Cambridge, MA: Harvard University Press.
- Seltzer, William, and Margo Anderson. 2001. The Dark Side of Numbers: The Role of Population Data Systems in Human Rights Abuses. *Social Research* 68(2) Summer: 481–513.
- Tamargo, María del Carmen. 2007. Practical Implications of Under-Registration in Panama and Dominican Republic. IDB Project Document. Inter-American Development Bank, Washington, DC.
- UN (United Nations). <http://www.unmillenniumproject.org/goals/gti.htm>
- . 1948. Universal Declaration of Human Rights. <http://www.un.org/Overview/rights.html#a14> (assessed on April 20, 2009).
- . 1994. United Nations Covenant on Civil and Political Rights. <http://www.hrweb.org/legal/cpr.html> (accessed on April 20, 2009).
- . 2002 *Human Development Report 2002: Deepening Democracy in a Fragmented World*. New York: United Nations Publications.
- . 2008. Millennium Development Goals Report 2008. New York: United Nations Publications.
- UNICEF (United Nations Children’s Fund). 2005. The ‘Rights’ Start to Life. A Statistical Analysis of Birth Registration. New York: UNICEF Publications.
- . 2006: *The State of the World’s Children 2006: Excluded and Invisible*. New York: UNICEF Publications.
- . 2007. *The State of the World’s Children 2008: Children Survival*. New York: UNICEF.