



The Significance of Legal Identity in Situations of Poverty and Social Exclusion

The Link between Gender, Ethnicity, and Legal Identity

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Technical Note

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ABSTRACT

Failure to register births and lack of legal identity are considered to have a direct effect on possibilities and opportunities for full participation in social, political, and economic life. Although the registration of birth in the civil registry does not in itself guarantee access to education, health, social protection, or citizen participation, its absence can place those fundamental rights beyond people's reach. In 2007, a study was carried out in Bolivia, Ecuador, and Guatemala to understand the characteristics, numbers, and location of the economically, culturally, and socially vulnerable groups that are excluded from access to legal identity. The study did not contemplate an analysis of the costs associated with under-registration, however not having a national identity document was found to have economic and financial implications and to be a determining factor in the cycle of poverty. The study does not claim to be exhaustive; rather it is meant to be a constructive contribution to the search for practical solutions that will help countries achieve universal, reliable, integrated, and secure legal identity for all of their citizens.

1. BACKGROUND AND INTRODUCTION

The exclusion of the poor from access to opportunities and activities is a nonmaterial aspect of poverty that must be recognized and addressed.¹ Exclusion takes many forms, but one of its common and determining factors is the lack of an identity document.

Having a document that verifies one's identity is fundamental for any citizen to be able to access rights, benefits, and services. Today, having a legal identity is increasingly important for any person who interacts with the public sector and society in general. Legal identity is understood to be the combination of factors that enable a person to access rights, benefits, and responsibilities; that is, the legal registration and documentation of name, personal data, date of birth, and unique identification, whether in the form of biometric data or a unique identifying number.

To be undocumented means to be denied opportunities and possibilities to exercise civil and social rights. In practical terms, there is no distinction between an undocumented person whose birth was never registered and one whose birth was registered, but who never obtained his or her national identity document.

There is anecdotal evidence of exclusion of women and members of ethnic groups due to lack of identity documents. The Inter-American Development Bank (IDB) conducted a series of studies on the consequences of under-registration of births in Latin America, which confirmed that gender and ethnicity are barriers that prevent birth registration and, consequently, impede access to a national identity document (Ordóñez and Bracamonte, 2006).

For the period between 1996 and 2006, UNICEF estimated that the average under-registration of births in Latin America, in the group of people between birth and five years of age, was 11 percent. The analysis is complicated by the lack of precise data (UNICEF, 2008). For 2007, UNICEF estimated this rate to be almost 17 percent in Latin America, the same percentage that has been observed in some social programs that require the presentation of identity documents to access benefits.² With the exception of the estimates of under-registration of births compiled by

¹ http://www.adb.org/Documents/Books/Social_Exclusion/Social_exclusion.pdf

² See http://www.unicef.org/media/media_40731.html

UNICEF, based largely on the Multiple Indicator Clusters Survey (MICS), there is no specific scientific methodology to definitively measure under-registration.

Perhaps this shortcoming is due to the fact that lack of legal identity has not been viewed as a public interest issue by the governments of the region and, therefore, has not been placed on their agenda as a crucial and crosscutting theme for defining public policy. To some extent, the transformations in the format and design of social policies starting at the end of the 1990s and fundamentally in the 2000s—where benefits have gone increasingly to individuals—have exposed the challenges of the undocumented segments of the population. The relevance and impact of legal identity have become more visible in the wake of the September 11th events and the focus on border conflict and illegal immigration has increased. While the magnitude of undocumented citizens in the Latin America and Caribbean (LAC) region is significant, in some Asian countries these numbers are inverted; that is, the registration rate is less than 18 percent. A study by the Asian Development Bank (ADB) (2000) emphasizes the links between poverty, vulnerability, and the multifaceted implications of not having a legal identity for the ability to access social programs and government benefits. It also finds that women, especially single mothers, frequently confront discriminatory practices perpetrated by registry authorities, a situation that also exists in Latin America.

In 2007, the IDB carried out in-depth studies in Bolivia, Ecuador, and Guatemala in order to increase knowledge about the relationship between gender and ethnicity and lack of identity document. The studies highlights the practical initiatives that offer solutions to exclusion based on lack of legal identity exacerbated by gender and ethnicity. This technical note is a qualitative exploration of a set of causal factors that strongly contribute to exclusion, in particular under-registration of births and lack of legal identity due to gender and ethnicity. It is organized into eight sections, including the background and introduction. The next section lays out the methodology used. The third section describes the gaps in access to timely birth registration and documentation, based on an analysis of variables that describe the context of poverty (unmet basic needs and/or income poverty, rurality) and social vulnerability (illiteracy, place where births occur, etc.) and one that focuses on the levels of under-registration of births and lack of legal identity by sex and ethnicity in each country studied. The fourth section describes the legal frameworks in force in each country that regulate the means of access to legal identity.

Depending on the requirements and the degree of accessibility, as well as the efficiency of the civil registry offices in each national territory, these laws can act either as barriers or as facilitators of access to registration of births and legal identity in each country.

The fifth section analyzes the existing information systems as inputs in the design of public policies and programs in each of the three countries, and the manner in which they register, validate, and share (or fail to share) information referring to registration of births and documentation. It attempts to identify alternative ways to optimize these systems in order to contribute to the output of reliable information. The sixth section provides a synthesis of the main initiatives implemented by governments to respond to under-registration of births and lack of legal identity.

In the seventh section, the authors propose a set of operational strategies designed to close the gaps in access to registration of births and documentation on the part of the most vulnerable groups—women and ethnic minorities living in poverty. The final section sets forth the main conclusions derived from the comparative and integrated analysis of the findings obtained in the three countries studied.

2. METHODOLOGY

Bolivia, Guatemala, and Ecuador were selected for the study because of their particular demographic profiles. Each country has a large indigenous or Afro-descendent population.

Bolivia and Guatemala are the two Latin American countries with the largest indigenous populations: 62 and 38 percent respectively. The case of Ecuador is relevant because in some zones of the country there is a large Afro-descendent population, which makes up some 5 percent of the population. It is assumed that this population is undercounted and that the actual number is over 10 percent of the population. Ecuador's indigenous population represents 7 percent of the total.

The research approach in each country was exploratory and qualitative, since the purpose was to conduct a situational analysis with respect to the under-registration of births and lack of legal identity. Relevant documents, publications, and information (both quantitative and qualitative)

were reviewed, and informants' opinions, perceptions, and experiences were collected and/or qualified for their direct or indirect connection to the topic.

The absence of precise data made exploration of secondary sources necessary. Consequently, quantitative data from secondary sources were reviewed with the aim of describing the magnitude and location of the problem of under-registration and lack of legal identity for ethnic groups with a gender perspective. Individual and/or group interviews were conducted with representatives of government agencies, nongovernmental organizations, and international aid agencies. In Ecuador only, focus groups comprising indigenous and Afro-descendent women and men, youth, and adults were conducted.

As part of the fieldwork, 85 people were interviewed in the three countries: 23 in Bolivia, 37 in Ecuador, and 25 in Guatemala. A total of 115 people were interviewed in nine focus groups in Ecuador, of which 44 were indigenous and 71 were Afro-descendants. Among the indigenous people, 27 were women and 17 were men; and among the Afro-descendants, 61 were women and 25 were men. In total, 88 women and 42 men participated in the focus groups.

3. CONTEXT AND PRINCIPAL RESULTS

I. Context

To understand the complexity of the problems caused by under-registration of births and lack of legal identity and the diverse form that these take, it is important to define some of their most frequent expressions. With respect to registration of births, there are four scenarios: a) registration that is free of charge within timeframes established by law in each country (generally between 30 and 60 days following birth, except in Bolivia, which allows up to 12 years for the registration of births); b) late registration, which occurs later than the time periods established by law in each country and generally requires the payment of fees and administrative and judicial procedures; c) the absence of registration, that is, when there is no legal registration of birth (such situations usually need to be resolved by administrative and/or judicial processes that can be costly); and finally, d) duplicate registration, the results of scant or deficient controls and security measures that enable duplication of registration and issuance of duplicate documents.

With respect to identity documentation, a person is considered undocumented when he or she lacks the ability to exercise his or her full rights (protection before the law and social, economic, and cultural policies) or to fulfill his or her duties (e.g., voting or the payment of taxes) because they cannot prove their identity. Lack of legal identity can be depicted in two terms a) absolute, which is the case when the person's birth has not been registered, and therefore has no birth certificate or identity document issued in his or her country of origin; or b) relative, where the person's birth has been registered but he or she has lost the registration document or did not receive it due to a registration error, and thus never obtained a national identity document.

There are various reasons why people lack legal identity. Some people never obtained their identity documents; some misplaced their documents and never obtained replacements; some lost their birth certificates due to the deterioration or disappearance of the registration books; some should have been registered but the personal data at the registry are incorrect (e.g., spelling errors in the first or last names—a situation which occurs frequently among the indigenous population because of the inadequate knowledge of indigenous languages on behalf of the civil registry staff—; and some have invalid documents (due to changes in countries' documentation systems). The failure to register births in a timely fashion is the precursor to problems related to lack of legal identity in adulthood. Using these conceptual categories as the starting point, this paper attempts to categorize and describe appropriate scenarios in each country selected for the study.

II. Results

One of the first findings in all three countries was the lack of official national statistical data that would enable an accurate analysis of the problem.³ This difficulty occurs for a number of reasons. First of all, in Ecuador and Guatemala, the census does include a question that asks whether or not people registered their births or the births of their children or whether or not the people possess identity documents. Bolivia had a question about documentation in the last census, but because of the way it was formulated, it does not provide the exact dimension of the two problems of interest to this study: under-registration of births and lack of legal identity.

³ Studies have been done on the topic by international aid agencies, but they are samples. Moreover, they refer to different segments of the population and they do not always use comparable methodologies. In other words, there is some information, but there are no official national statistics that reveal the magnitude of the problem.

Each of the three countries has information on live births, which is registered by hospitals or maternal health centers, but they do not have reliable data on births that took place outside public health centers, which would have rendered a much closer estimate of the total number of children born but not registered. The late registry of births represents another variable that adds to the complexity of accurately analyzing birth registration and, thus, vital statistics. Therefore, in general there are estimates on under-registration that are constructed by analyzing the data on births, late registration of births (which can amount to between 40 and 50 percent depending on the country), and the figures on hospital and nonhospital deliveries that are collected through a number of sources, such as specific living condition surveys.

A third relevant finding was the existence of “problems of bad documentation or errors in documentation.” These problems indicate the existence of people who are improperly registered and who therefore cannot—at the age when an identity document is required—obtain legal documentation. Thus, the problem of under-registration of births and lack of legal identity also include situations of errors in the registries produced in and by public agencies.

III. Availability of Statistical Data

The data in Box 1 represent an approximation of the magnitude (although surely underestimated) of the problem and they underscore the urgent need to improve the collection and processing of reliable and representative data on the subject in question.

Table 1. Magnitude of the Problem of Under-Registration of Births in Bolivia, Ecuador, and Guatemala

BOLIVIA	ECUADOR	GUATEMALA
255,000 live births (2003)*	319,609 live births (2001) ^Δ	375,092 live births (2003) [#]
Under-registration of births		
10 to 18% of children*, estimated to be triple this number in rural areas	15% of children, ^Δ estimated to be up to 18 to 20% of adults	5 to 10% of children, [#] estimated to be 20% of the rural/indigenous population

Source: *Bolivia: INE Census 2001 and *El Subregistro de nacimientos: el análisis de las variables de género y etnia en Bolivia*, IDB, 2008, M.C. Tamargo; ^ΔEcuador: INEC, *Estadísticas de nacidos vivos, inscripciones oportunas y tardias, según regiones*, 2005 and *El Subregistro de nacimientos: el análisis de las variables de género y etnia en Ecuador*, M.C. Tamargo; [#] Guatemala: *El registro de nacimientos: el derecho a tener derechos*, Innocenti Digest No. 9, 2002, *El Subregistro de nacimientos: el análisis de las variables de género y etnia en Guatemala*, IDB, 2008, M.C. Tamargo.

Table 2. Estimated Magnitude of Citizens without Legal Identity Documents

Lack of legal identity document		
Bolivia	Ecuador	Guatemala
9.5% according to the census 30% according to the national police (charged with issuing identity cards)	18 to 20%	10% of the entire population 40% of the indigenous population

Source: Bolivia: Census 2001 and *El Subregistro de nacimientos: el análisis de las variables de género y etnia en Bolivia*, IDB, 2008, M.C. Tamargo; Ecuador: *INEC, Estadísticas de nacidos vivos, inscripciones oportunas y tardias, según regiones*, 2005 and *El Subregistro de nacimientos: el análisis de las variables de género y etnia en Ecuador*, M.C. Tamargo; Guatemala: *El Subregistro de nacimientos: el análisis de las variables de género y etnia en Guatemala*, IDB, 2008, M.C. Tamargo.

As can be seen in Tables 1 and 2, the figures on under-registration of births and citizens without legal identity documents vary depending on the source of the information, which attests to the absence of reliable information and common, standardized measures. Likewise, the estimates of both problems are similar, since between 10 and 20 percent of the population are affected by each of these problems. It is also estimated that these data are greatly underestimated with respect to the indigenous population, based on anecdotal evidence.

IV. Living Conditions that Affect Under-Registration of Births and Lack of Legal Identity

To characterize the living conditions of the population, a select set of variables (proxies) can be analyzed, which will determine possibilities of access to public services, and in particular the timely registration of births and documentation. By using this approach, it is possible to have a better perception of the unfavorable conditions that lead to the exclusion of certain groups due to lack of legal identity. Furthermore, the same analysis can provide some direction toward producing more specific estimates using statistical approaches.

Considering proxy variables—such as place of residence (urban/rural), poverty level, membership in an ethnic group (indigenous or Afro-descendent), gender, and access to education (illiteracy), among others—, in the three countries studied, a strong correlation between poverty, rural locations, ethnicity, and gender emerged. At the same time, the data revealed that illiteracy and cultural norms around the care of women giving birth also appear to be barriers to access to timely registration of births and identity documentation, since these factors predominantly affect indigenous and Afro-descendent households, the poor, and people in rural areas.

Indigenous and/or Afro-descendent populations tend to be concentrated in rural areas and in some cases in isolated areas difficult to reach (as is the case in Ecuador).⁴ This situation, together with the fact that in the three countries analyzed the supply of public services (hospitals, health centers, civil registry offices, schools, etc.) is not equitably distributed among urban and rural areas, means that people in these areas have less access to public services. This exacerbates their conditions of poverty and makes their access to registration of births and documentation more difficult.

As Table 3 indicates, in the three countries the proportion of the population that lives in rural areas is greater than 30 percent, especially in Guatemala, where it is greater than half the population (54 percent). With respect to poverty distribution, the data indicate that it is highly concentrated in rural areas, in all cases greater than 60 percent. That is, the data confirm the link between poverty and rural communities.

Table 3. Distribution of Urban/Rural Population and Poverty in the Countries Studied

Country	Population		Poverty levels	
	Urban	Rural	Urban	Rural
Bolivia	62%	38 %	26%	62%
Ecuador	61%	39%	25%	62%
Guatemala	46%	54%	30%	70%

Source: Census 2001, 2002 in each country and *Encuesta de Condiciones de Vida en Ecuador (quinta ronda 2005–2006)* and in Guatemala (2006).

Table 4 shows the geographic distribution of the indigenous population and demonstrates the strong concentration of this population in rural areas, a phenomenon common to all three countries. Guatemala stands out in that some 80 percent of the indigenous population there lives in rural areas.

⁴ It is important to point out that in the three countries, most of the organizations and officials interviewed believe that the official statistics underestimate the actual proportion of the indigenous population (especially in Guatemala and Ecuador) and Afro-descendant (in Ecuador and Bolivia).

Table 4. Size and Geographic Distribution of the Indigenous Population in Bolivia, Ecuador, and Guatemala

Country	Indigenous and Afro-descendent population		
	Total	Urban	Rural
Bolivia	62 %	45 %	55 %
Ecuador	6.8 % Indigenous; 5% Afro-descendent	8.4 % Indigenous; 71% Afro-descendent	91.6 % Indigenous; 29 % Afro-descendent
Guatemala	38 %	19.2 %	80.8 %

Source: Census 2001, 2002, in each country and *Encuesta de Condiciones de Vida en Ecuador (quinta ronda 2005–2006)* and in Guatemala (2006); RISALC-CEPAL, 2008.

As the data in the following tables indicate, ethnicity and gender are aggravating factors of the structural causes (rural location and poverty) that explain under-registration of births and lack of legal identity. Table 5 shows that in the three countries, there is a greater concentration of illiteracy in rural areas. In Guatemala, 33 percent of the rural population, which is also predominantly indigenous, cannot read or write, while this is true for only 11 percent of the urban population (INE, ENCOVI, 2006).

Table 5. Unmet Basic Needs, Illiteracy, Infant Mortality, and Place of Delivery in the Countries Studied

Country	Poverty (NBI)	Illiteracy		Place of delivery		Infant mortality (under 5)
		Men	Women	Hospitals	Home and other	
Bolivia	59%	9.8%	29%	40.8%	59.2%	60 per thousand live births
Ecuador	46%	7.3%	9.5%	79%	21%	24 per thousand live births
Guatemala	51%	19.7%	27.6%	50.2%	49.8%	41 per thousand live births

Source: Census 2001, 2002 in each country and statistics from the respective statistical institutes in each country. *Encuesta de Condiciones de Vida en Ecuador (quinta ronda 2005–2006)*, and in Guatemala (2006). UNICEF on infant mortality.

Unequal access to education by gender is another example of how gender relations create situations of unequal access to goods, services, and social opportunities between men and women, to the disadvantage of the latter. These inequalities are exacerbated in the context of

poverty and ethnicity. For example, in Guatemala 23 percent of women have never attended school, a proportion that reaches 33 percent among rural women and 38.8 percent among indigenous women. In Bolivia, of the total population nearly two of every 10 people are illiterate, with significant differences by gender, as three out of every 10 women are illiterate as opposed to one out of every 10 men. Only six indigenous women for every 10 indigenous men have attended school.

Within indigenous and Afro-descendent communities, gender relations based on an androcentric pattern that subjugates women affect the situation of women. This means that girls and adolescents are denied access to documentation because of their domestic roles. At the same time, their more limited access to education makes it more difficult for mothers to realize the value of registration and to register their children's births themselves.

The age of the mother is a factor in under-registration (Duryea, Oligiati, and Stone, 2006), as is their level of schooling with respect to late registration of births. The high level of illiteracy among women (higher than the rate among men in all three countries) makes it more difficult to conduct the necessary bureaucratic transactions to register their children's births in a timely fashion. In many cases, women do not understand well enough, or at all, the Spanish language, or they have difficulty understanding the instructions to carry out the transaction, which is complicated further by the fact that they lack information on the implications of late registration.

At the same time, as indicated in Table 5, the high percentage of nonhospital deliveries, which occur mostly among indigenous women, and the lack of recognition of their children on the part of the male partners, also influence the under-registration of births, since socially and culturally women's authority and autonomy to register their children are not acceptable without the father's presence. In Guatemala, 65 percent of poor women gave birth to their most recent child in their homes (INE, ENCOVI, 2006). In Ecuador, indigenous women gave birth in their homes in 65 percent of cases (ENDEMAIN, 2004).

In summary, being poor and indigenous or Afro-descendent, living in a rural and sometimes inaccessible area, being illiterate, and giving birth at home are all variables that negatively affect the possibility of registering births in a timely fashion, setting a precedent for future problems of documentation. Other relevant aspects are linked to the worldviews and cultural norms of ethnic

groups. In this context, the different value and meaning assigned by the indigenous population to civil registration—seen as both as an imposition by the authorities and an activity without obvious benefits—generates cultural resistance, expressed both in the delivery of children in their homes, as well as in reluctance and difficulties in registering the indigenous population in the civil registration. As long as nonhospital deliveries predominate (despite the existence of strategies of care using midwives from the communities themselves, designed and implemented by the government), the possibility of registering newborns in a timely fashion will remain remote, which will initiate a vicious cycle of problems around identity documentation.

At the same time, the refusal of some women to register their children in the civil registry without listing the father's name, in cases when the paternity is not recognized by the man, is based on the fear that the child will be discriminated against, because of the social stigma and the questioning of the woman's behavior in their communities. In Latin America, parentage is expressed by using both the mother's and the father's last names, and this combination is an important social key.

In addition to the inferences that can be made from the data collected—with the proviso that they are neither exhaustive nor complete—the opinions and perceptions of those interviewed, whether government officials or not, also coincided in the three countries, as they indicated the existence of unequal access to legal identity based on:

- Geographic barriers (rurality and isolation)
- Economic barriers (poverty)
- Socio-cultural barriers (cultural norms and gender roles)
- Inadequate coverage of public services
- Discriminatory practices against women

This situation is aggravated by the lack of understanding and acceptance of cultural and ethnic diversity on the part of public officials in general and of civil registry officials in particular. Additionally, in all three countries being poor, indigenous or Afro-descendent, and female means facing profound inequities in accessing information and in receiving assistance to transact with government agencies.

Put another way, the denial—or limitation—in the exercise of full citizenship that derives from not having a legal identity is aggravated when added to other exclusionary factors such as socio-economic condition and discrimination based on gender, ethnicity, or nationality. There is thus a phenomenon of the handing down of intergenerational and intrafamilial problems of registration and documentation in the most vulnerable populations.

This underscores the need to analyze both under-registration of birth and lack of legal identity, not as isolated and distinct events that occur at a certain time in a person's life, but rather as aspects of a process, each of which has interrelated implications for personal and social development and for the full exercise of citizenship throughout a person's life.

4. LEGAL FRAMEWORKS: BARRIERS OR FACILITATORS

I. Institutional Framework

Every country legislates, develops norms for, and organizes in its own way the functions referred to as registration of persons, their vital events, and the granting of their legal identity. That is, every country defines the institutions and legal norms that regulate procedures, requirements, and processes to access documentation that proves that their subjects are citizens. This section briefly describes the institutions (civil registries) and norms concerning birth registration and documentation in the three countries studied. The civil registry is a transversal institution, since it must fulfill various functional roles within the state from a legal (granting legal identity); statistical (the basis for vital statistics); civic (the basis for the electoral registry); and, in some countries, social function (the basis for inclusion in social programs).

The way that service delivery of civil registry, as well as the mechanisms, procedures, and administrative arrangements that govern the granting of birth certificates are organized, as well as the issuance of the national identity document or card, are also elements that either facilitate or hamper access to legal identity on the part of the population in general, and particularly for economically and socially disadvantaged groups.

Table 6. Institutional Characteristics

BOLIVIA	ECUADOR	GUATEMALA
<p>Since 1992, The Civil Registration Department has been under the National Electoral Court, and comprises nine departmental directorates, including the Civil Registry. Their function is to register vital events (births, marriages, deaths, etc.). Until very recently, all of the civil registrations were entered manually in books supplied by the NEC, and were subsequently transcribed in a database of the Central Civil Registry. This database contains all birth certificates and marriages in the archives of the Departmental Directorates of the Civil Registry and in its national office.</p> <p>The National Police (NP), through the National Directorate of Personal Identification, is the only agency that can issue identity cards. It delegates the function of providing ID cards only in the departmental capitals of the nine departments, which causes hardships for people living in rural areas.</p>	<p>The Civil Registry falls under the Ministry of Telecommunications. Its structure is centralized at the national level and decentralized with an office of the CR in each of Ecuador's 22 provincial capitals. The CR has 1036 offices distributed in villages and municipalities and parishes. Their function is to register vital events (births, marriages, deaths, etc.). The distribution of these offices is based on population density, which means that more sparsely populated areas do not have such offices, predominantly in rural/indigenous areas and in geographically inaccessible areas.</p>	<p>Until 2005, civil registration was located in municipalities, without being unified in a single database or linked among the different municipal registration offices. In 2005, the National Law on Registration of Persons was created as an autonomous institution, independent of other government structures.</p> <p>The fees for registration processes or processing the identity card were not modified.</p>

Source: Authors' elaboration.

The civil registries of the three countries analyzed have remained behind with respect to the processes of modernization of the state. Concomitant with the low level of technology and information processing of their structures has been the persistence of manual practices and procedures and outmoded abilities and skills on the part of staff to implement reforms and modernization. However, since the original studies were carried out in 2007, the civil registry of

Guatemala has begun a dynamic modernization process. Moreover, Ecuador is in advanced stages of planning a reform, complete with a timetable for implementation, and Bolivia is in a preparatory phase, with actions clearly defined and prioritized.

The centralization of civil registries without adequate processing of information, as well as the decentralization without adequate electronic connectivity and the impossibility of being able to count on a consolidated data base have all conspired against the veracity, accuracy, and safety of information on personal identity. Even in cases of centralized structures—with branches in provinces, municipalities or villages—, the lack of consolidated data bases causes a number of difficulties for people who have had problems with their registration (errors, loss of birth certificates, etc.), since this requires them to return to their place of birth in order to carry out the necessary processing and transactions.

In the three countries, there has been internal displacement of the population, with Guatemala demonstrating the most extreme case due to the experience of the armed conflict. Displaced individuals and populations represent a particular challenge with regards to registration and identification. This challenge necessitates adequately centralized databases and smoother procedures to simplify extemporaneous registration.

II. Identity and Identification

In order for individuals to have a legal identity in the LAC region, they must have three documents: a certificate of live birth, a birth certificate, and a national identity card. Without a certificate of live birth and a birth certificate, it is difficult—if not impossible—to obtain an identity card.

Another common element is that the existing processes for late registration of children, adolescents, youth, and adults (extemporaneous registration or replacement of birth certificates) imply the necessary hiring of a notary public and/or attorneys, since a series of affidavits must be generated and legal-administrative processes substantiated, the cost of which can average around US\$200. With respect to obtaining the national identity card, the cost in all three countries ranges from between US\$6 to US\$8, which, considering the levels of poverty in these countries, is inaccessible for a significant portion of the population in poverty, especially indigenous and/or Afro-descendent.

Two common problems in the three countries are the scant qualifications and the low number of registrars or civil registry officials and consequent low national coverage. These two issues can explain a good part of the numerous problems of documentation due to registration errors. As stated above, one of the central problems is the “incorrect registration” —mainly in Bolivia and Guatemala—which often becomes the initial barrier for the correct registration and later documentation of the population (both children and adults). To correct this will require extensive purging of the inconsistent documents and registries. Among the most frequent of these “incorrect registration” errors are incorrect dates of birth and spelling errors, in the first and last names due to the difficulty of understanding the names and indigenous phonetics on the part of the registrars and due to their low qualifications (even their ability to read and write).

In recent years, a number of legal initiatives have emerged in all three countries, which are aimed at recognizing and facilitating the universal right to legal identity. There have been advances in making the criteria and procedures more flexible both for proving the identity of children (through the appearance of two witnesses when there is no birth certificate), as well as in correcting spelling errors of first and last names without going through the courts (in Bolivia, for example).

From the gender standpoint, and in order to diminish the gaps in access to legal identity between women and men, it is necessary to revise and relax the administrative procedures referring to the consideration of the social autonomy of women to register her children in the absence of the father, or in situations when the man does not recognize his paternity of the child. In Ecuador, the arrangements in force require either the presence of both parents or the father alone to register the child. The woman’s right to register her child autonomously is not recognized without the consent or participation of the biological father. In the case of Bolivia, however, the mother may register the child on her own. In Guatemala, Article 73 of the 2005 RENAP law stipulates that both parents must apply for the registry of birth of minors. If one of the parents is absent, or if the child is born to a single mother, it can be done by the single parent. In the case of an orphan; a child whose parents are unknown; or an abandoned child, relatives of the minor, his or her older siblings, or the Attorney General can request the registry of the birth.⁵

⁵ Law on National Registration of Persons (RENAP), Decree No. 80-2005.

However, even when the possibility exists for the mother to register the child by herself, social acceptance or stigma comes into play, which inhibits women—especially indigenous or poor women—from exercising this right, because doing so would expose them to a situation of social condemnation for them and their children (single mother, son or daughter of an unknown father). This is clearly expressed in the way in which these women are treated in the offices of civil registry and in their difficulty in confronting this situation.

These situations described constitute proof of situations of violation of equal rights and opportunities based on gender. In the case of access to legal identity, this phenomenon manifests itself both in terms of postponement of timely registration of girls, often favoring boys, and also in the difficulty to achieve recognition of legal identity of their children when the partner is absent. It is still necessary to do more to disseminate and recognize gender equality in general, and the importance of the right to legal identity in particular.

Finally, it is important to note that although the express reference to the universal right to legal identity and to nondiscrimination in the legal frameworks of these countries is a significant step toward the universality of this right, it is insufficient unless it is accompanied by processes of awareness-raising and an informed citizenry in general. It is also crucial to train personnel at the decision-making and operational levels, where discrimination tends to occur on a daily basis.

5. THE SIGNIFICANCE OF CIVIL REGISTRATION FOR INFORMATION SYSTEMS

With respect to information and statistical systems, the challenge that can be inferred from the studies carried out in Bolivia, Ecuador, and Guatemala is overcoming the current fragmentation and lack of comparability and reliability of the information produced by different government agencies. Clearly the link between civil registration and vital statistics is one of the most crucial sources of information needed for development of public policies.

With respect to this issue, it is necessary to differentiate between three types of data that are needed to improve the measurement of the problem of under-registration of birth and lack of identity documents, as well as to recognize and describe those groups that are excluded from

access to legal identity. The first type of data originates from the national census, which preserves the safety of anonymity of the data and are collected through data collection operations in households every decade. The second type are vital statistics, which are developed from the information provided by the civil registry containing details about births and deaths; as with the census, anonymity is preserved. At the same time, the civil registries manage data that identifies the individual, such as name, date of birth, parentage, and a unique identification number, all basic requirements for acquiring a national identity document or passport. The third type includes data required by information systems on beneficiaries of social programs, social protection systems, school enrollment, and other programs. All three require a specific treatment and differentiated strategies to improve the quality and reliability of the information.

Box 7. National Information Systems

Anonymous information	Named information
National population census	Civil registry Birth certificates Marriage certificates Death certificates
Vital statistics	Lists of beneficiaries of social security and/or social programs, health insurance, etc.
Surveys on living conditions	School enrollment

Source: Authors' elaboration.

With respect to the census data or surveys on living conditions carried out by the appropriate agencies of the national statistic system of each country, it is necessary to revise and improve methodologies for data collection and processing mechanisms in order to measure and describe the magnitude of under-registration of births and lack of legal identity mainly by gender, residence (urban/rural), socioeconomic condition (poor/non-poor), and ethnicity, These must be revised at the national level, and disaggregated by region, state, or province. In this way, the current fragmentation of sources of exiting data would be overcome and data would be validated and obtained through national statistical systems in each country. To this end, it is necessary to arrive at criteria and methodologies by convening those experts and statistical organizations in the countries of the region that have made strides in the collection of those ethnic variables that have enabled the processing of accurate, reliable, and relevant information.

The underlying studies have highlighted the need for compatibility among the information registration systems of the distinct entities involved in the process, which culminates in the granting of legal identity of persons (whether through the birth certificate or the identity card or document). This implies reaching a conceptual and methodological agreement on the relevant variables to be included in the various data collection instruments (certificate of live birth, birth certificate, etc.) and the criteria to guarantee the collection of all of the required data, as well as to process the information completely and carry out cross-controls of the data to ensure consistency among the different databases.

This compatibility must also occur with respect to the review and harmonization of the administrative circuits foreseen for the sending and receiving of data. This data is captured from the certificates of live birth, which are derived both from civil registries and from statistical institutions. In all three countries, there are delays in reporting and an absence of controls, which hinders the processing of information based on high standards of quality.

There is a clear need to design modalities of work that are coordinated both vertically and horizontally among the agencies responsible for capturing and processing information on vital events and to increase the dissemination and awareness of the strategic value of statistical information for decision making at all levels of government. Concrete strategies should be designed to clearly define common criteria and methodologies to collect, validate, and process information in order to consolidate databases and ensure their consistency. For this, it will also be crucial to cross reference vital statistics, including the information produced by the educational system (school enrollment), with the social security beneficiary information systems, social programs, and lists of their beneficiaries, in order to pinpoint and provide solutions for cases of lack of identity or other problems of registration/documentation.

This harmonization of information systems on vital statistics and nominal registrations of individuals and families receiving government benefits is not sufficient without a doubling of efforts to collect and analyze information from a gender and ethnic perspective. If this is not done, the invisibility and exclusion in access to legal identity will not be overcome; that is, incorporating the variables of sex and ethnicity on all information forms, which agencies and programs generate, and processing the information disaggregating for sex and ethnicity should be a *sine qua non* requirement for the production of information of this type. However, this is

extremely sensitive information, and every measure should be taken to protect the information from being used for political or discriminatory purposes, either directly or by function creep. Improvement in information and communication processes must also be accompanied by awareness raising about the strategic value of statistical information, and how civil registration is linked to vital statistics for the purpose of producing key information for public policy development and design. Awareness must also be raised about the benefits of having a legal identity, which recognizes people as citizens. Although the civil registry was created in Guatemala at the end of the nineteenth century (1877), in Ecuador at the beginning of the twentieth century (1900), and Bolivia in 1940, in all three countries, the culture of registration needs to be strengthened both in government agencies and among the population as a comprehensive strategy that will help reduce inequalities in accessing legal identity.⁶

6. GOVERNMENT INITIATIVES TO FACILITATE ACCESS TO LEGAL IDENTITY DOCUMENTS FOR THE POPULATION

Initiatives carried out by governments designed to resolve the problems of under-registration and facilitate access to legal identity documents have approached these challenges on three levels of action: the legal frameworks, institutional reform of the civil registration systems, and the creation of alternative approaches to register and provide documents to individuals. The following is a description of the substantive actions that have been taken on each level.

Reform of the legal frameworks: the actions of the governments have consisted of reforms aimed at improving and making existing legislation more flexible as a way to legally improve the access to timely registry of births and documentation (Bolivia and Guatemala, as part of the Peace Accords).

Institutional reforms of the civil registration systems: reforms that are based either on the modernization of the civil registry (Ecuador and Bolivia) or on the creation of new institutions (Guatemala), with the main objective in both cases of overcoming of arcane practices of

⁶ Before then, church parishes kept the registries of baptisms and marriages; that is, religiosity and appearances before church authorities through religious (not administrative) ceremonies were the means to public identity and the consecration of significant events in peoples' lives.

clientism and malfeasance in the issuance of birth certificates and identity documents. It has also been aimed at advancing the development of centralized bases of information storage and processing and issuance of documents (Guatemala and Ecuador).

Creation of direct documentation and alternative approaches of registration and documentation of persons: these actions span the gamut of options, from the design and implementation of programs and documentation campaigns, to the creation of ad hoc and itinerant decentralized systems to register individuals. In the case of the latter, appropriate technology and mobile units have been acquired, which can be deployed in the territories to carry out registration and documentation online, using personnel either from the public sector or from local community organizations (Ecuador and Bolivia). In general, because they are not cost efficient, targeted documentation campaigns have had only partial impact, which indicates the difficulty of sustaining them over time.

Itinerant systems generally operate outside the organizational structures in each country and are often carried out by third parties, who will take on the responsibilities of registering births and documentation. To understand better how these experiences work in each country, it is necessary to clarify how the institutional responsibilities are distributed with respect to registration of births and documentation.

Box 8. Government Initiatives that Address Issues of Documentation

BOLIVIA	ECUADOR	GUATEMALA
<p><i>Existo Yo, Excista Bolivia</i></p> <p>Centralized system with decentralized operation, designed to facilitate access to legal identity documents. Identity card is provided free of charge to persons over 18 years of age. It does not resolve under-registration.</p>	<p>National Program on Registration and Identity Cards</p> <p>Centralized system operating in itinerant fashion. It coordinates resources from public and private agencies. It is based on a strategy of agreement and collaboration with local actors. Registration and documentation of persons (children and adults) is free of charge. Incorporates appropriate technology to digitalize archives and information for the future and to increase and guarantee the safety (against falsification) and inviolability of identity documents.</p>	<p>Creation of National Registry of Persons (RENAP)</p> <p>Strategy of centralization, replacing the municipalized structure of the civil registries. Incorporates appropriate technology to digitalize archives and information for the future and to increase and guarantee the safety (against falsification) and inviolability of identity documents.</p>

Source: Author's elaboration.

In two of the three countries analyzed, the functions of registration of births and issuance of the national identity document are assigned to a single agency. In Ecuador, it is the civil registry, and in Guatemala, the RENAP is responsible for registration and issuance of the identity document. In Bolivia, however, these functions are assigned to different agencies: the civil registry (which falls under the National Electoral Court) is responsible for registering births, while the national police issues identity documents.

These organizational-institutional differences imply the existence of entities that either facilitate or hinder the necessary coordination to improve access to documentation in an integrated way. In Bolivia, for example, the program entitled *Existo Yo, Excista Bolivia* (I Exist, Bolivia Exists) coordinates jointly with the police, who are responsible for issuing identity documents, but it has not made progress in cooperation and coordination with the civil registry. For this reason, it is not possible to resolve problems of those that lack the birth certificate.

In addition to these actions, which can be classified as direct actions of governments around problems of registration and documentation, there are also indirect actions. These are programmatic actions that governments implement in various areas of public administration.

They can be seen as windows of opportunity for the identification of population groups that have problems with documentation and that can also help resolve them.

Box 9. Social Programs that Require Presentation of an Identity Document

BOLIVIA	ECUADOR	GUATEMALA
<p>BONO JUANCITO PINTO (elementary school scholarships) RENTA DIGNIDAD (economic aid for seniors over 60) DRAFT LAW ON UNIVERSAL HEALTH INSURANCE –SU SALUD (community-intercultural family health care model)</p>	<p>BONO DE DESARROLLO HUMANO (conditional cash transfer program) FREE MATERNITY PROGRAM</p>	<p>PROGRAMA MI FAMILIA PROGRESA (conditional cash transfer program)</p>

Source: Authors' elaboration.

All of the programs identified in Box 9 have as a common quality: the fact that they require proof of legal identity of the potential beneficiaries of the benefits that they grant, which in all cases are aimed at addressing and compensating situations of poverty. For example, a child who lives in a poor, rural and/or indigenous family that cannot prove his or her identity (with a birth certificate) will more likely be excluded from receiving a scholarship, or an elderly person that is poor and/or indigenous and does not have an identity document will not be able to access economic assistance from the *Renta Dignidad* in Bolivia. If a woman is poor and/or indigenous and has minor children, she will be excluded from access to economic assistance—for example in Ecuador, through the *Bono de Desarrollo Humano*—if she cannot prove her legal identity by means of an identity document, although she is part of the target population that the program is aimed to assist. The same is true of women and family groups who are potential beneficiaries of the *Programa Mi Familia Progresada* in Guatemala, who remain on the waiting list until their document situation is resolved.

Therefore, it is evident that the new ways of managing social policies imply that the lack of legal identity produces exclusions when potential beneficiaries attempt to access benefits offered by the government. Thus, it is necessary to think about long-term strategies that accompany these

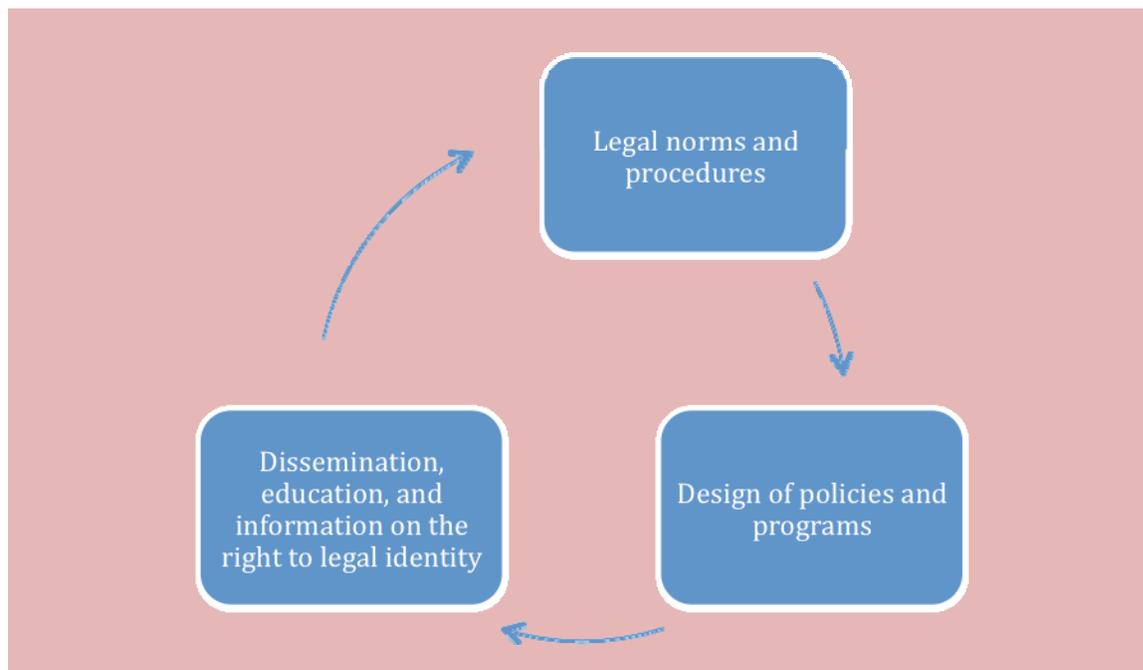
new social policies, based on coordination among social programs and actors and the responsible agencies in each country, both for birth registration and the issuance of identity documents. In this way, it will be possible to advance more effectively in the identification and resolution of the problems of under-registration and lack of identity documents and avoid further exclusion of the vulnerable population, particularly ethnic groups and women.

7. OPERATIONAL STRATEGIES TO INCREASE THE PROPORTION OF CITIZENS WITH LEGAL IDENTITIES

One of the aims of this publication is to propose some ideas and concrete methodological alternatives that can serve as the basis for the discussion, design, and implementation of inclusive policies and actions that will facilitate the closing of the gaps of inequity in access to legal identity, with a special emphasis on a gender and ethnicity perspective.

The relevance of incorporating the perspective of gender and ethnicity is based on the existence of situations of exclusion of women due to their gender and ethnicity, with respect to the full exercise of their citizenship, as they are not recognized as subjects of law in conditions where they can access legal identity and/or register the identity of their children. It is also based on the positive recognition of cultural diversity and respect of human rights for all individuals regardless of their race, ethnicity, or gender. In this context, strategies designed to reduce gaps in access to legal identity require actions related to legal frameworks and the orientation of public policies, as well as those to disseminate knowledge and educate the population.

Figure 1. The Virtuous Circle of an Efficient, Reliable, and Safe Civil Registry



Source: Authors' elaboration.

In order to carry out complementary strategies in these three areas, it is necessary to build “bridges of accessibility,” which implies breaking through the barriers of access to legal identity of women and ethnic groups. These bridges should coordinate throughout the diverse planes of intervention in order to achieve an integral approach to the problem of under-registration and lack of legal documentation. This requires overcoming the vision of the problem of documentation as a technical process of proving identity, and rather understanding access to identity as an integral right and the exercise of citizenship.

I. Legal Frameworks

The analysis conducted in the three countries highlighted the need to reaffirm and/or incorporate the universal right to legal identity into each country's existing legislation. At the same time, existing legislation should be modernized and harmonized in order to achieve “universal access to legal identity,” prioritizing the rights of women and ethnic groups.

Another important aspect is the lengthening of the period of birth registration, taking into consideration the objective and symbolic-cultural conditions of diverse population groups, in

order to facilitate the increase in birth registration efficiently and without charge. It would also be important to make advances in the simplification of the procedures applied in the cases of late birth registrations and remove the process from the legal system.

Finally, with respect to existing regulations, one aspect that will undoubtedly contribute to the improvement of civil registration systems is the assignment of a unique identification number to every citizen at birth. Another way would be to take steps to respect and guarantee the protection of one's personal information and privacy.

II. Public Planning

A central task is to educate human resource departments of the government agencies on the crosscutting nature of the problem of under-registration and lack of legal identity. This is the first step in the effective design and implementation of public policies. But, the incorporation of methodologies for the design and intersector management of the approach to the problem should compliment this step.

The aspects that refer to planning are deployed at different institutional levels and cover different aspects that influence the improvement of registration systems and the reduction of inequities. For example, at the level of operational planning it is necessary to strengthen and coordinate civil registry information systems with those of other ministries (health, education, etc.), as well as to incorporate the variables of gender and ethnicity in the registries and process information disaggregated by these variables.⁷

Promoting the reform and modernization of civil registries based on transparency and the incorporation of security measures to insure the reliability and inviolability of information is one of the most important tasks for the future. Some advances have been made in the cases studied—including the professionalization and training of human resources on notions of citizenship, the right to legal identity, and nondiscrimination based on gender and ethnicity—but they need to be expanded. It would also be a significant step forward to promote the incorporation of representatives from ethnic groups and women in the working groups (officials and registrars)

⁷ While it is important to quantify these variables for the purpose of developing more inclusive policies, it is also important to take every measure to protect information regarding individuals that has the potential to compromise the individuals' safety and civic rights.

within the civil registries. Another aspect that could contribute to innovation and improvement of civil registries is the promotion of knowledge management processes through exchanges among civil registries of countries with experience in this area.

With regard to programs and direct actions aimed at registering and documenting persons, there is a need to develop strategies to capture incidences of under-registration and lack of legal identity that can coordinate immediate, flexible, and simple responses, without the burden of indirect costs such as transportation costs for the people that need to be registered.

Civil registries and agencies involved in registration should develop strategies and interagency agreements to improve the delivery of public services to vulnerable populations. For this, it is important for the family—including the adults and elderly, as well as the children and adolescents—to be considered as the unit of approach, resolving in an integral manner the intergenerational transmission of problems related to securing legal documentation. This action should be complemented with the achievement of agreements to design and implement strategies to integrate services and/or existing programs in each country, so that under-registration and lack of legal identity in each country can be addressed in a crosscutting manner.

This could be achieved by instituting areas of inter- and intrasector coordination that enable the incorporation of the topic of legal identity as a critical point in all programs and actions of the government, with the aim of improving the identification and resolution of these situations. These actions include, for example, making schools and health centers “nodes” through which problems of documentation (whether the lack of a birth certificate or of an identity document) are detected. The schools should work with the civil registries to define the procedures to resolve these situations (their origin, follow-up, and implementation of the response), and, for example, organize community fairs where documentation problems can be addressed. Moreover, ideally a civil registry office should be operational in maternity wards that can grant a birth certificate at the moment of birth.

With respect to conditional cash transfer programs, it is necessary to reach information sharing agreements among relevant agencies for the databases of potential beneficiaries that lack identity documents. By doing this, these situations would be easily resolved and those in need would have quicker access to the benefits. Likewise, it is necessary to coordinate the information

processed by beneficiary identification systems, such as the SELBEN, in order to uncover and effectively resolve documentation issues revealed in families responding to the census.

All of these actions can be combined with specific strategies or campaigns to resolve documentation issues based on itinerant and decentralized systems. These can be added to longer-term strategies that aim to increase capacity of the entities responsible for responding permanently to the needs and demands of the population with respect to access to legal identity work in the provinces—on an intersector level or between jurisdictions in civil registries.

The census should be considered as an instrument to tabulate under-registration and lack of documentation by introducing a question about it. This would contribute to the establishment of a baseline of measurement for programs and initiatives designed to ensure access to legal documentation for citizens.

A number of organizational alternatives could contribute to provide responses to the population, such as the formation of information centers and councils at the local level in order to take advantage of existing local resources (midwives who assist at deliveries that take place in the homes of indigenous women, health promoters, teachers and school officials, indigenous authorities, women's organizations, etc.). At the same time, local social auditing entities could be created through collaborative work, with agreements among socially legitimate organizations that represent the interests of women and ethnic groups (indigenous and Afro-descendants).

Finally, a systematic and permanent effort must be made to train centralized and territorial teams in gender and ethnic perspective, as well as to raise awareness and provide appropriate information on the "right to legal identity" to the population and groups that suffer discrimination (promotion of demand).

8. CONCLUSIONS AND RECOMMENDATIONS

In the last decade, important advances have been made in the introduction of legislation, programs, and policies that promote gender equity in Latin America and the Caribbean. But, even when the tools exist, an ethnic perspective that accompanies them is often lacking. Without the dimensions of gender and ethnicity and the policies and programs that seek the participation

and inclusion of the most marginalized groups, there is the risk of deepening their exclusion. A determining and aggravating factor for social, economic, and political exclusion—for men and women alike—is the lack of an identity document. The studies carried out in Bolivia, Ecuador, and Guatemala were carried out to broaden the understanding about critical aspects for more equitable development. They have shown that under-registration and lack of legal identity documents makes the situation of ethnic groups more difficult, and furthermore that women are more likely than men to lack identity documents.

The civil registry authorities in the countries are aware of the importance of universal, efficient, and integrated registration, not only because of the social, political, and economic implications for people, but also because of the importance of the information that civil registries produce as input to the national systems of vital statistics. The national authorities recognize the challenges, but they lack the tools to measure and mitigate problems of exclusion due to lack of legal identity. A key theme is incomplete or erroneous demographic data due to the weakness of vital statistics. This is a barrier to the development of efficient public programs.

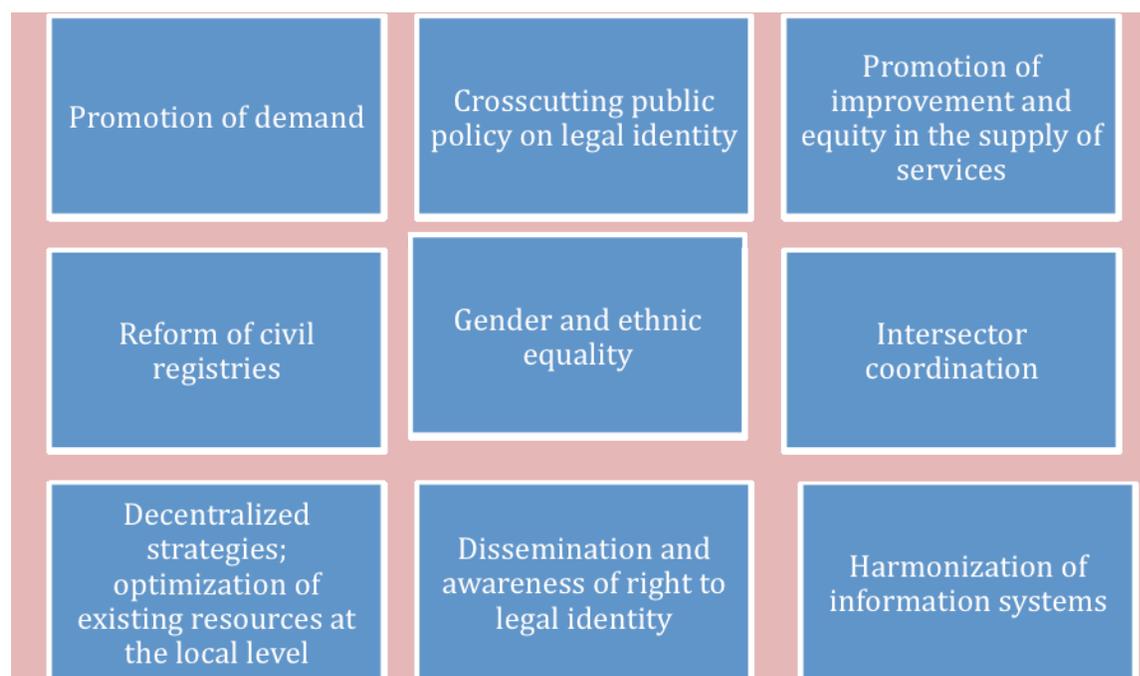
The lack of balanced quantitative data leads to incomplete public policies and inequality and anomalies in the distribution of resources. The first step to having current, high-quality vital statistics is the ability to have updated registration of births and deaths. This is only possible if the civil registry is universal and efficient.

The registration of births is key to being able to exercise the rights of citizenship, which in turn enables social, political, and economic inclusion. It is the duty of the government to grant identity to its citizens, normally through the registration of birth in its civil registry. This is the first contract between the government and the citizen, and the birth certificate is the basic document for the generation of any other identity document (i.e., a passport, national identity document, voter registration card, etc.). Therefore, the government must be the most interested party in having the services of the civil registry centered on the physical person; that is, to guarantee universality of registration and the veracity of the information.

It is fundamental to approach the question of access to legal identity from the design and formulation of public policy that is crosscutting in its design and implementation and that emphasizes gender and ethnic equality. This presupposes incorporating the notion of full

citizenship and considering the approach to access to legal identity from the perspective of rights. From this premise, it is important to work in two converging directions: on the one hand it is necessary to promote improvement and equity in the supply of public services, and on the other, to promote the demand by raising awareness among the citizens with respect to the right to legal identity as one that enables other rights and obligations to be fulfilled by citizens and guaranteed by governments.

Figure 2. Public Policy on Legal Identity: Balancing Supply and Demand



Source: Authors' elaboration.

The promotion and improvement of the supply is possible through legal, procedural, and organizational reforms that will guarantee universal coverage and access to legal identity, incorporating decentralized service delivery strategies based on territoriality and sector and jurisdictional coordination. Both strategies are convergent and require placing legal identity on the public agenda.

With the advent of e-government, legal identity becomes more important than ever, since e-government is a new paradigm in the relationships between the government and the citizens through interconnection of government services. The importance of having a unique and secure

identity to access benefits and rights, such as health care or social security services—without having to go to different agencies and stand in long line—benefits citizens as well as service providers. For citizens, processes become less costly in terms of time and the need to be physically present, while the government saves money by avoiding fraud and its associated costs and by providing services in real time in many cases.

In order for e-government to function efficiently, however, some essential preconditions are necessary, such as adequate and secure information technology infrastructure, standardization of norms of intercommunication, a risk management policy, and a high degree of confidence in the government on the part of the citizens. There is a clear correlation between citizens' confidence in government and the success of e-government (UN, 2009: 90). Strengthening public institutions through modernization programs should be seen as fundamental, both for efficient public policy and for coherent public administration for all citizens.

Because of the institutional and administrative asymmetry among the countries of the region, channels of dialogue should be established to facilitate the exchange of experiences and knowledge, which will enable the countries to guarantee the right to legal identity without exclusion or discrimination of any kind.

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