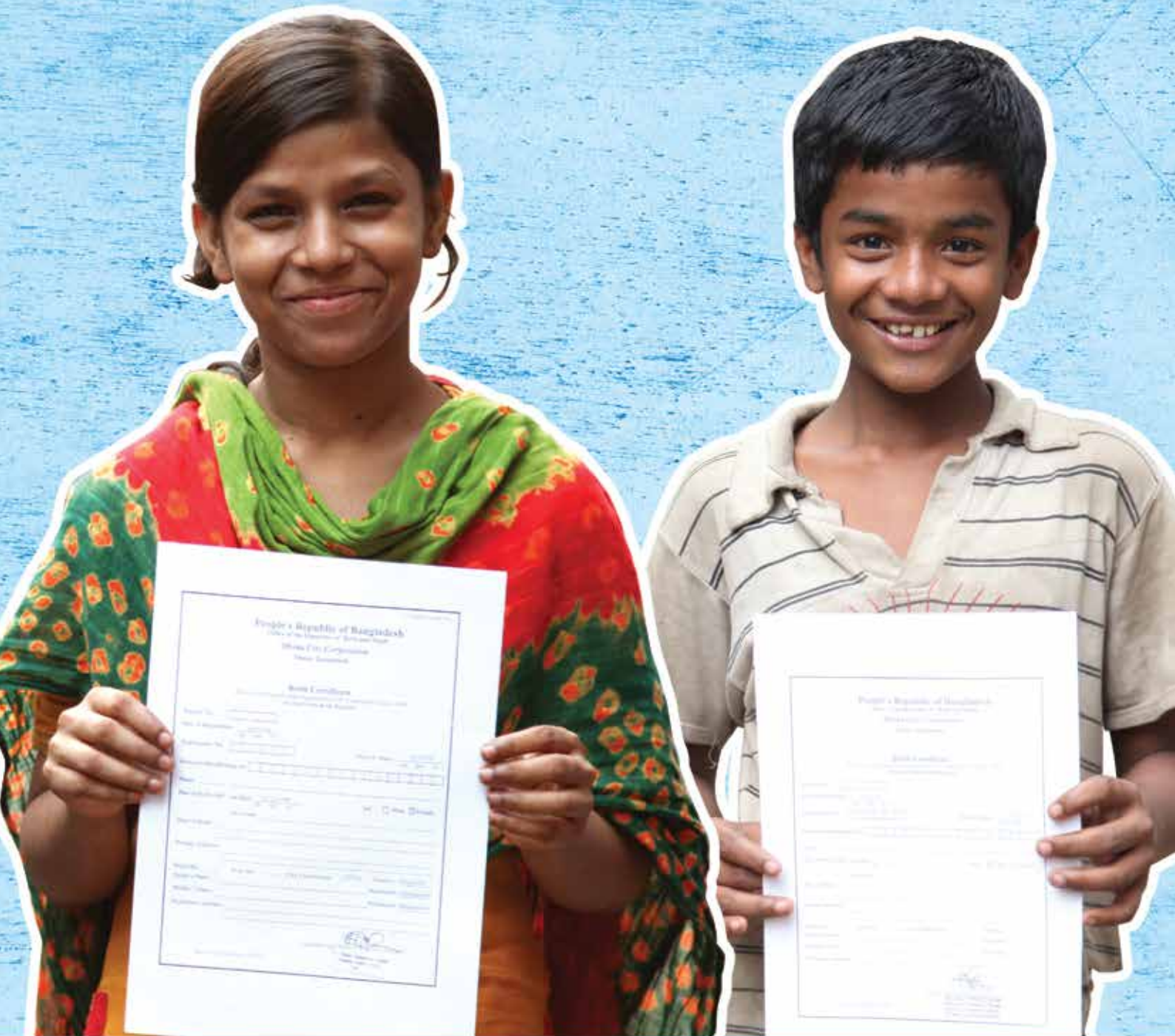


BIRTH REGISTRATION AND CHILDREN'S RIGHTS

A COMPLEX STORY

EXECUTIVE SUMMARY



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BIRTH REGISTRATION AND CHILDREN'S RIGHTS

EXPECTATIONS vs FINDINGS

AREAS WE RESEARCHED

LEGAL IDENTITY

EXPECTATION

A birth certificate is a legal identity document that can help people access rights and entitlements

FINDINGS

A birth certificate is a form of legal identity.

In some countries, identity documents can also be obtained through other means and forms of proof, such as household registers

A birth certificate can facilitate an individual's access to other identity documents, such as a passport, that are attached to particular rights and benefits.

A birth certificate can enable a person to prove his or her identity in order to access services and claim rights.

HOWEVER

Lack of birth registration further marginalises groups who are already excluded from society.

The importance of birth registration is linked to demands from a more modern and more urban world

Legal identity documents can identify and exclude non-citizens, such as migrants and refugees.

page 8

ACCESS TO EDUCATION

EXPECTATION

Birth registration unlocks the door to education

FINDINGS

A mixed picture arose regarding the relationship between having a birth certificate and access to education.

Unregistered children are at greater risk of exclusion from school.

Rigidly implemented government efforts to achieve universal birth registration, such as making a birth certificate a strict requirement for going to school or taking exams, can create barriers to education for unregistered children.

HOWEVER

Not all countries require birth registration to access education. In instances where they do, it was found that teachers sometimes help children to obtain birth registration.

page 10

ACCESS TO HEALTHCARE

EXPECTATION

Birth registration is the key to improved access to healthcare

FINDINGS

Quantitative data shows a positive correlation between birth registration and key health indicators in almost all contexts.

HOWEVER

Quantitative data does not provide information on when birth registration takes place, so it is unclear if birth registration comes before, and thus potentially causes, improvement in health indicators.

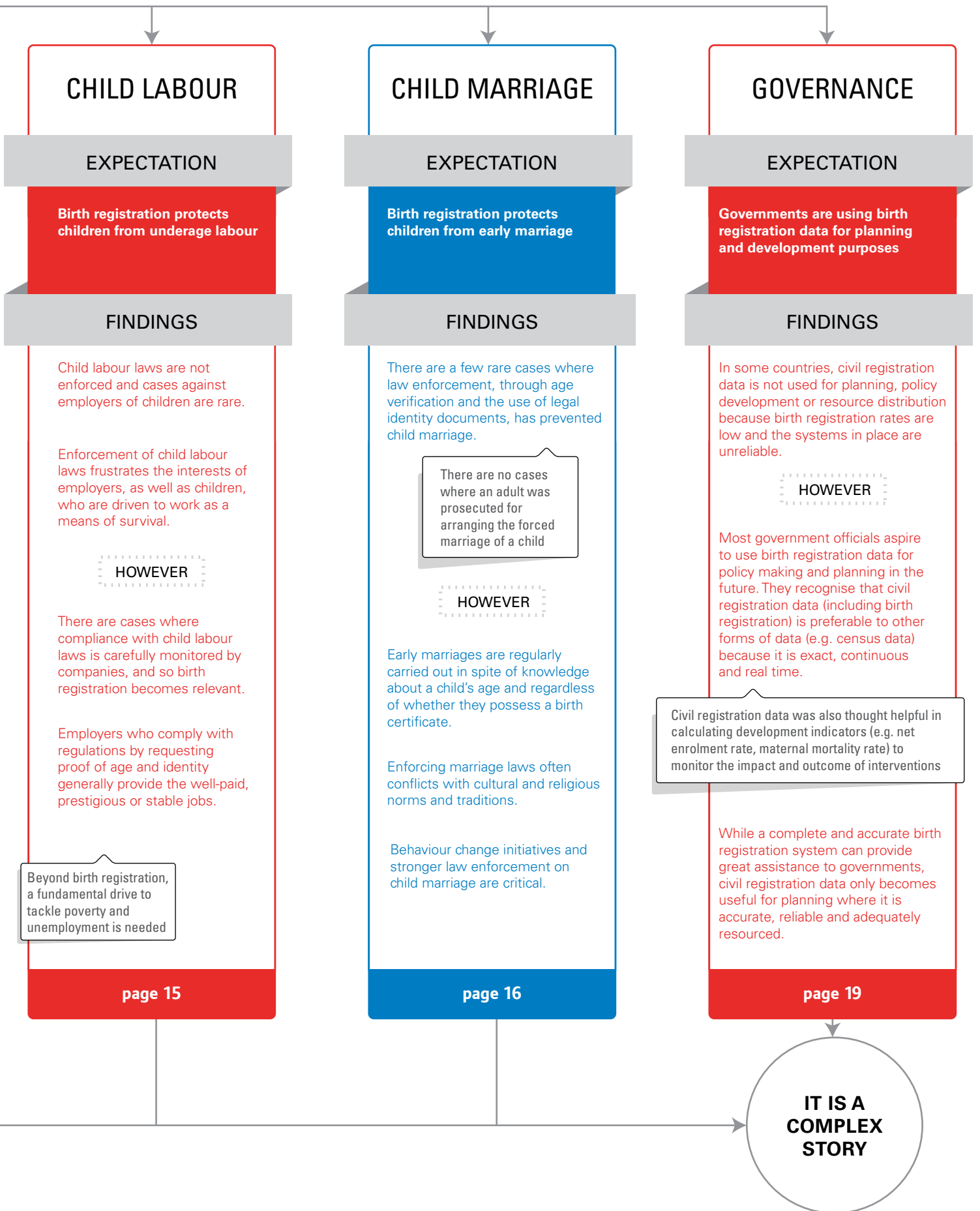
Birth registration is required in some countries, such as Vietnam, to access healthcare

The qualitative study suggests that the relationship could be because children born in a formal health facility are more likely to have their births registered as well as have access to health services than those born at home

Findings suggest children who do not access either birth registration or health/education services have a lower exposure to services as a whole.

page 13

Plan International commissioned a four-country qualitative and quantitative study (Vietnam, Sierra Leone, Kenya, India) to investigate the benefits of birth registration for the individual (micro level) and for the state (macro level) to provide an improved evidence base to inform Plan's future programming and advocacy work.





1. INTRODUCTION

1.1 INTRODUCING BIRTH REGISTRATION

Birth registration, “the continuous, permanent and universal recording within the civil registry, of the occurrence and characteristics of births in accordance with the legal requirements of a country,”¹ is a fundamental right of all children and a basic function of all modern governments. It comprises two elements: entering details of a child’s birth (in addition to other relevant information) into official government records, and issuing a ‘birth certificate’ to the child’s parents, including information on the date and place of birth, parents’ names and further information such as nationality.² The United Nations Children’s Fund (UNICEF) describes birth registration as part of an effective civil registration system that acknowledges the person’s existence before the law, establishes family ties, and tracks the major events of an individual’s life, from birth to marriage and death.³

The right to birth registration is contained in the United Nations Convention on the Rights of the Child (CRC), which states that “the child shall be registered immediately after birth and shall have the right from birth to a name, the right to a nationality.”⁴ As well as being a right in itself, birth registration has also been linked with a wide range of other rights and benefits, such as securing a child’s access to essential services and protecting children from abuse and exploitation. As part of a complete and accurate civil registration system, birth registration has also been linked to more effective child rights planning and governance, and, more broadly, to promoting social and economic growth.⁵

Given the extensive scope of the anticipated benefits of birth registration, there has been increasing interest from development partners in implementing programmes on birth registration in countries with low rates of registration and a rapidly emerging body of literature written on the subject.⁶ To date, however, most of the literature has focused on explaining and justifying the case for increased birth registration, or exploring barriers to implementing effective birth registration systems, and ensuring access to birth registration for vulnerable individuals. There remains a significant lack of available empirical research that explores the effects of birth registration and if and how it benefits children in practice.⁷

Recognising this gap in research, Plan International commissioned a four-country study investigating the benefits of birth registration. The purpose of this study was to investigate the benefits of birth registration for the individual (micro level) and for the state (macro level) to provide an improved evidence base to inform Plan’s future programming and advocacy work.



1.2 OBJECTIVES OF THE STUDY

The first objective of the study was to examine the extent to which birth registration benefits individual children, through directly and indirectly facilitating the implementation of children's rights in three broad areas: child protection, provision of basic services (particularly health and education), and promoting economic security for youth.

The second research objective was to examine whether data collected through birth registration is used by governments for planning and other governance purposes. The research explored the extent to which governments use birth registration data, and whether the establishment of an effective birth registration system plays a key role in promoting good (child rights) governance⁸ and in enhancing social and economic growth.

1.3 RESEARCH METHODOLOGY

A mixed methodology was used for the research, including: a literature review of existing research concerning birth registration; a quantitative study of demographic and statistical data regarding birth registration and development; and the collection of primary qualitative data through 119 interviews and 41 focus group discussions with stakeholders in four Plan programme countries: India (Maharashtra and Uttar Pradesh States only), Kenya, Sierra Leone and Vietnam. Countries were selected to represent geographical diversity, as well as to capture contexts with different levels of birth registration, and different levels of economic and institutional development, as this was considered likely to have an impact on benefits associated with birth registration.

The quantitative element of the study used selected Demographic and Health Survey (DHS) data sets to carry out a multivariate analysis⁹ to explore the relationship between birth registration and health indicators in India, Kenya and Sierra Leone. The DHS data provided large, representative samples: data on over 6,000 children from each country was included within the analysis. It was not possible to investigate the relationship between birth registration and education indicators using the DHS data because the DHS only collects birth registration status for children under the age of five for the countries included within the study. As an alternative, Plan International's sponsorship dataset was found to provide the most suitable data to explore this

relationship, as it contains rare information on birth registration details of children old enough to attend school. A panel regression analysis, which tracks data over time, was carried out on this data. Plan's data set also provided large samples for analysis, including data on 16,479 children for India; 16,788 children for Kenya and 4,786 children for Sierra Leone. The quantitative element of the study did not extend to Vietnam, because rates of birth registration are above 90% and it was therefore not possible to capture the effects (to statistical significance) of birth registration through a comparison of children with and without birth registration.

Utilising a mixed methodology enabled researchers to draw on the strengths of both qualitative and quantitative methods, improving the validity of results and rendering the study of greater use for informing advocacy and programming interventions. The quantitative findings provide evidence on relationships between birth registration and a range of health and education indicators, which are predictive of more general trends. The qualitative findings provide insight into *why* and *how* these relationships are functioning in different contexts and what this does (and does not) demonstrate about the benefits of birth registration.

1.4 LIMITATIONS

The research was faced with a number of limitations.

Due to time and resource constraints it was not possible to conduct the study in every Plan programme country. The four case study countries were selected to represent diversity so that the findings could apply more broadly to similar countries. This has been reflected in the production of a series of four typology analyses that are available as appendices to the full research report.¹⁰ Nevertheless, some of the findings may not be generalised to other contexts.

During the qualitative research it was difficult to meet in person with central government personnel in Vietnam or federal government personnel in India, which limited the research findings in relation to investigating the benefits of birth registration for government. Written responses to questions were provided by some government departments in Vietnam. In India, researchers met with state-level government representatives responsible for managing and implementing birth registration.

The quantitative element of the study provides evidence on associations or correlations between birth registration and a range of education and health indicators. However, the findings do not provide any insight into the causal relationship between birth registration and these indicators as the data does not tell us which came first, i.e. it is just as likely that children's access to services improves their chances of being birth registered as it is that being birth registered facilitates a child's access to services. Furthermore, given the magnitude and complexity of the different factors that are likely to affect both a child's access to registration and their access to services, it was not possible to adjust for all these factors within the analysis.

1.5 FINDINGS AND ANALYTIC FRAMEWORK

Research findings are broken down into four sections that connect to different potential benefits of birth registration: legal identity; access to services; child protection; and governance. These are summarised below. In each section the analysis first examines how birth registration can, or has been understood in the literature (bearing in mind the limited evidence) to facilitate each associated benefit. For ease of reference, this will be termed the 'expected relationship'. This expected relationship is then considered in light of qualitative and quantitative findings from the four country case studies, to examine how birth registration is (or is not) functioning in practice.

1.6 CONCLUSIONS AND RECOMMENDATIONS

Detailed recommendations for birth registration programmes and advocacy have been formulated based on the findings. These are summarised in Section 6 on page 22. Three overarching conclusions and recommendations arising from the research were:

1.6.1 *A holistic and integrated approach to birth registration*

The relationship between birth registration and access to other children's rights and services was found to be complex and context specific. It is important to recognise that birth registration is only one component of a governance and legal system that could protect and promote children's rights. Birth registration should not be implemented in isolation. Any birth registration initiative should

be integrated with other measures to fulfil children's rights, such as governance, protection, education and health care and should be part of a comprehensive civil registration and vital statistics (CRVS) system.

Adopt a holistic and integrated approach to children's rights when programming or advocating for birth registration.

1.6.2 *Birth registration: a planning and policy issue*

Birth registration was found to have the most potential value at the macro (systems) level. Birth registration is a fundamental children's right and should be part of an effective civil registration system. The research suggests that civil registration systems and vital statistics have the potential to be a public good for individuals, governments and the wider global community.

Consider advocating for investment in effective, comprehensive and rights-based CRVS systems.

1.6.3 *Further research*

This research was a pioneering study into the benefits of birth registration to the individual and the state. It has therefore raised a number of more in-depth questions and recommendations for further research. For example, further qualitative research on how CRVS systems are used for policy planning, resource allocation and otherwise promoting provision of services in a high-income country would strengthen evidence for the technical assistance needed for countries embarking on the implementation of CRVS systems.

Consider conducting further research into the effects of birth registration and if and how it can facilitate children's rights.

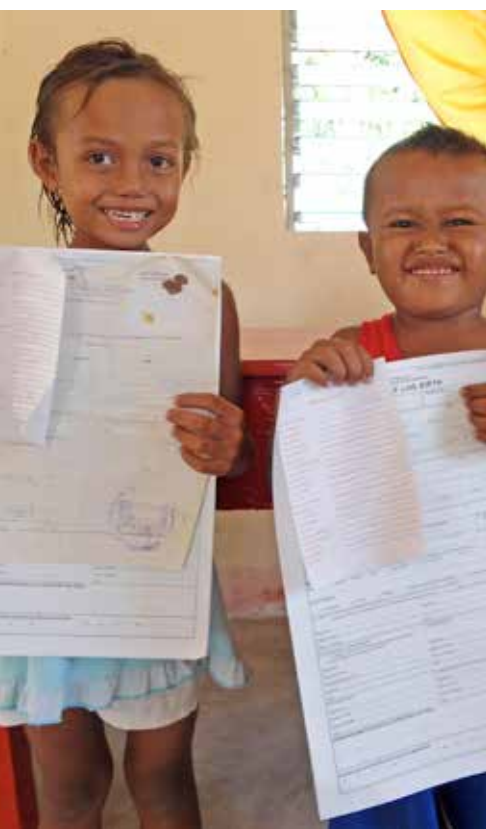
2. LEGAL IDENTITY



2.1 EXPECTED RELATIONSHIP: BIRTH REGISTRATION AND LEGAL IDENTITY

Articles 7 and 8 of the United Nations Convention on the Rights of the Child (CRC) enshrine the right of all children to an identity and a nationality.¹¹ A birth certificate is a legal identity document: “a government-issued document that proves one’s status as a person who can exercise rights and demand protection under the law.”¹² In the majority of cases, legal identity is used by an individual to access rights and entitlements associated with their status as citizens, or residents, of a particular country. Both private and government institutions may, in different instances, require individuals to show legal identity.

The relationship between birth registration and legal identity presents a direct impact of birth registration. Possessing a birth certificate may indirectly promote rights associated with legal identity, by providing individuals with a means through which to claim them. This is because a legal identity document is often important in situations where an individual is required to prove his or her identity in order to access a service, claim a right, complete an administrative procedure, and so on. In these circumstances, birth certificates may themselves be used as a form of legal identity proof. More commonly, they may be used to facilitate an individual’s access to other identity documents, such as a national identity (ID) card or passport, which are concretely attached to particular rights and benefits (such as the ability to open a bank account or travel internationally).



Given that a birth certificate establishes legal identity from the beginning of a child’s life, UNICEF has argued that: “birth registration may signify the beginning of the legal contract between the individual and the State known as citizenship... While birth registration does not itself confer citizenship upon the child, it is often essential for its acquisition based on each country’s law.”¹³ Once citizenship is established it has been argued that it “opens the door to the fulfilment of rights and to the privileges and services that a nation offers its people.”¹⁴

However, when considering the above statement and others like it,¹⁵ it is important to recognise that legal identity may equally be used by governments to indicate who is included in the State and society and thus entitled to rights and, by the same token, who is not. Legal identity may facilitate the acquisition of citizenship for eligible groups. Thus, an important consideration around the relationship between birth registration and legal identity is the approach taken by a state in relation to the realisation or fulfilment of rights by its citizens but also the approach to the fulfilment of rights by its non-citizens.

2.2 RESEARCH FINDINGS: BIRTH REGISTRATION AND LEGAL IDENTITY

When asked open-ended questions about the benefits of possessing a birth certificate, respondents across all four case study countries were most likely to emphasise the value a birth certificate has for establishing the national identity or citizenship of a child. As mentioned later, this was given greater importance in the context of economic growth, globalisation and government expansion.

Sometimes the value of a birth certificate was expressed primarily in abstract or symbolic terms: "It has to be that someone was born in a country."¹⁶ In other cases, especially in Kenya, (parts of) India and Vietnam, respondents referred to the practical uses of a birth certificate, especially the role a birth certificate can play in facilitating an individual's access to other legal identity documents such as a passport, national ID card or driving licence. The research found, however, that in practice these documents can often be obtained through other means and forms of proof.

Different types of documents were found to be concretely attached to particular administrative functions and benefits in each country (for example, in Vietnam the 'household register' was found to be critically important, in parts of India it was the 'ration card', and in Kenya the national ID card). Respondents often possessed these documents without being birth registered. For example, even in the remote areas of northern India included within the research, unregistered respondents possessed ration cards, 'caste certificates'¹⁷ and voter ID cards.

In all four countries, legal identity documents were found to be used as a means of identifying non-citizens, such as migrants and refugees, where they come into contact with legal systems or formal services.

"There are many refugees here. [Birth registration] helps to know who is Kenyan and who is not. To know who is a citizen."

Focus group discussion, parent, Nairobi, Kenya

Lacking documentation was also sometimes seen by respondents as evidence that an individual is not a citizen and therefore not entitled to the legal rights of citizenship. These findings support the theoretical analysis that legal identity is important for protecting citizenship rights, but not necessarily the rights of non-citizens.

Legal identity in some form or other was found to be important for many (but not all) respondents in all country case studies. However, the significance of possessing legal identity varied widely according to the context. Legal identity was found to be particularly important in Vietnam, which is characterised by high levels of state management of the population and of formal interaction between the population and its government.

"The birth certificate is the first certificate in your life. Birth certificates are very useful in so many cases in Vietnam. Even when people reach 80 years old they will need a birth certificate to get a pension."

Focus group discussion, parent,
Van Ban district, Vietnam

For many respondents in parts of Sierra Leone, on the other hand, legal identity appeared to have little practical relevance within people's everyday lives.

Significantly, across different contexts, the importance of birth certificates and other identity documents was consistently linked to transitions from traditional to modern lifestyles and access to economic opportunity and mobility. Respondents felt that identity documents are becoming increasingly important in the context of economic growth, globalisation and government expansion. As put by one participant: "a birth certificate has an important role to play... especially in this modern age."¹⁸

"To have a birth certificate is increasingly important. We're linking into a global world and it brings opportunity."

Head teacher, Nairobi, Kenya

3. ACCESS TO SERVICES

3.1 EXPECTED RELATIONSHIP: BIRTH REGISTRATION AND ACCESS TO SERVICES

Much of the literature on birth registration has focused on the potential role it can play in facilitating children’s access to basic services. Child rights advocates have emphasised that: “[birth registration] unlocks the door to healthcare, to education and to social benefits”¹⁹

The potential relationship between birth registration and access to services *is not direct or inherent*. It is determined by national law, policy or practice in a given context. One of the main reasons a relationship may exist is that in some countries individuals are required to produce a birth certificate to prove they are eligible to access services that are only available to people of a certain age, nationality or other identifying characteristic. In addition, birth registration has been linked to the improved planning, distribution and delivery of services. (This is an important relationship which is explored in the ‘government and governance’ section on page 19.)

The following sections explore whether a child’s possession of a birth certificate improves their chances of accessing two of the most important services for children – education and health care – in the four case study countries included in this research.²⁰

3.2 RESEARCH FINDINGS: ACCESS TO EDUCATION

The relationship between birth registration and access to education was found to vary widely among case study countries. Vietnam and Kenya have formal national policies that require children to possess a birth certificate at some point within the education system. In Vietnam, children require a birth certificate to enrol in primary and secondary school, while in Kenya they need a birth certificate to enrol in national exams. There are no such policies at the national level in India and Sierra Leone although respondents reported that some individual schools require birth certificates. Interestingly, there was a widespread perception among research participants that such policies do or should exist, which appeared to derive from ‘messaging’ about the benefits of birth registration.

In **Kenya** a birth certificate is not required to enrol in school. In 2009, however, the Kenyan government passed a directive that makes the presentation of a birth certificate a mandatory requirement for enrolment in national exams. The research indicates that this policy has created confusion over how to implement its directives, given that a substantial number of children lack birth certificates. While parents and children interviewed in the research reported that the policy is strictly implemented and that incidents of exclusion have occurred, teachers and head teachers reported that the policy is applied flexibly in practice in order to accommodate unregistered children.

“They [schools] do turn children away”

Parent, Nairobi, Kenya



It appears that many teachers play a role in helping to facilitate registration, or in reminding and putting pressure on parents to register their children. As a result, many students obtain birth certificates just prior to taking their school exams.

“Exclusion has not been happening. Before the time of the exam they have a hard time where they go to search for the birth certificate. If they can’t find it, they still take the exam.”

Programme staff, community-based organisation, Kwale, Kenya

“We don’t make any exceptions. We have to abide by the law. We make sure everyone has a birth certificate. You’re given time to look for it.”

County Director of Education, Kwale, Kenya

In **Vietnam**, a birth certificate is mandatory to enrol children in both preschool and primary school, and participants reported that the policy is strictly adhered to. Participants could not conceive that children would be excluded from school as

a result of the policy, as they assumed that the legal requirement to register children, together with the requirement that a child produce a birth certificate to enter school, would mean that all children were registered. This logic fails to take account of the fact that a minority of (particularly disadvantaged) children in Vietnam face significant barriers to having their births registered and, as a consequence, are likely to face barriers in accessing education.²¹

In **Sierra Leone** birth certificates are not formally required at any stage of the education system,²² although many respondents, particularly children, appeared to be under the impression that there is a requirement to produce a birth certificate. The research found that these ideas were very often associated with the activities and messaging of development partners. In practice, however, most participants thought a child would be able to access school without a birth certificate. One group of about 20 unregistered children reported having to pay money to access school because they did not have certificates.

In **India**, the law explicitly specifies that a child must be permitted to access education even if they do not have a birth certificate. In practice, however, in some parts of India schools appear to be requesting to see children’s birth certificates.

This was found to be particularly likely with private, elite schools.

“When people go to local schools, schools that are not particular [private], a child can get into school without a certificate. But it’s those higher institutions, that higher education, at that point of time they need a certificate.”

Young person, Mumbai, India

There were reports of children being refused entry to school for not possessing a birth certificate, and being asked to pay fines if they did not produce one. In general, however, participants seemed to feel that unregistered children face other more fundamental barriers in accessing education, such as poverty.

The quantitative analysis revealed strong and significant positive associations between education indicators²³ and birth registration for children sponsored by Plan. For example, in all countries, sponsored children with birth registration were more likely to be in formal and age-appropriate education than sponsored children without birth registration. These findings do not, however, provide evidence that being birth registered causes children to have improved access to school. There may be a number of intermediary factors that may explain the associations that are likely to affect both a child’s access to birth registration and their ability to access education that were not included as variables within the quantitative analysis. For example, the relationship between parental support and education indicators was not explored, which might dilute the strength of statistical associations between birth registration and education indicators.

In sum, the research revealed a mixed picture regarding the relationship between possessing a birth certificate and access to education. There did not appear to be many cases where children were denied access to education in practice simply because they did not have a birth certificate. In the few cases where lack of birth registration was raised by participants as a reason why children were not in school, deeper conversations with participants revealed that

there were probably more fundamental barriers to accessing education at play. Nevertheless, unregistered children were found to be at risk of exclusion from school in all contexts: either directly, through the implementation of official policies that make enrolment conditional on legal identity; or indirectly, through the emergence of a belief that such a requirement exists, which was sometimes found to lead to arbitrary restrictions being applied, such as the demand that a fine be paid in the absence of a birth certificate.

In all contexts, and particularly in Kenya, it appears that the push for formal or informal policies that require a child to be birth registered in order to access services is primarily a result of the desire to incentivise registration, and not a desire to limit school enrolment (or restrict examination entry in the case of Kenya). There is, however, a problematic circle of reasoning being applied that may create confusion about the relationship between birth registration and access to services. On the one hand the desire to increase rates of registration is being used to justify the imposition of these policies. On the other hand, the fact that these policies exist is being used as justification for the need to increase birth registration (because without a birth certificate a child is at risk of being denied access to education). It appears that recognition of the benefits of registration for assisting government planning, distribution and delivery of services at the macro level may have prompted the development of potentially confusing messages about the benefits of birth registration for promoting access to services at the individual level.

In contexts where law, policy or practice requires that children produce a birth certificate to enter school (or take examinations), access to education could (in theory) be improved either by increasing the level of birth registration or by removing the requirement that children possess a birth certificate. While the second measure removes barriers to accessing schooling for all children, the first measure (increasing the level of birth registration) will only do so if universal rates of birth registration are achieved. This is challenging in all contexts, but particularly in contexts where significant barriers to achieving universal birth registration (and also education) remain.

3.3 RESEARCH FINDINGS: ACCESS TO HEALTH

Vietnam is the only case study country where possessing a birth certificate was found in the qualitative analysis to be linked to accessing health services. This is because a birth certificate is required in order to obtain a health insurance card which guarantees free health care for children under the age of six years.

“Having a birth certificate is essential for getting health insurance, which means that a child can get free health care under six.”

District-level representative of the Department of Health, Vietnam

This was found to create barriers to accessing healthcare for unregistered children, especially children born to migrant parents who cannot afford private health care.

“I’m not too concerned that my child doesn’t have a birth certificate because he’s still young and stays at home. By the time he’s old enough to go to school I’ll register my marriage and get him a birth certificate. My only worry is if he gets sick. He has no health insurance.”

Internal migrant youth, Hanoi, Vietnam

In India, Kenya and Sierra Leone, respondents reported that a birth certificate is not required in order to access health services.

“We do need some information from them, but if they don’t have ID we just ask them for this information.”

Health Officer, Kwale, Kenya

In all contexts, children who access health services are provided with ‘health cards’ or ‘vaccination cards’ which contain important information

about vaccination schedules, and may be used to access services. The possession (or not) of these documents was not found to be related to birth registration.

The quantitative analysis revealed significant positive correlations between birth registration and a series of health indicators (vaccination uptake, nutrition and health management) in almost all contexts. However, as the data does not provide information on when birth registration takes place, there is no means of establishing whether birth registration comes before, and thus potentially causes, an improvement in health indicators by some means. Indeed, the qualitative findings suggest that these associations are a result of the fact that children who are born in a hospital or formal health facility are both more likely to be birth registered and more likely to have access to health services than children who are born at home. Furthermore, the qualitative research indicated that children who are accessing health services are more likely to have their births registered because health professionals often play a role in registering children’s births, especially during or after vaccination.

Overall, the quantitative findings do suggest that upon accessing either birth registration or health/education services, children have a higher exposure to services as whole. Conversely, the findings suggest that children who do not access either birth registration or health/education services have a lower exposure to services as a whole.



4. CHILD PROTECTION



4.1 EXPECTED RELATIONSHIP: BIRTH REGISTRATION AND CHILD PROTECTION

The potential of a birth certificate to support a child's right to protection from a wide range of different forms of violence, abuse, exploitation and neglect has been widely considered as a central benefit of birth registration. Many advocates hold that, because a birth certificate contains information about a child's age and identity, it provides a tool by which legal rules affording children special rights under the law can be claimed and enforced.²⁴ The study focused on exploring whether birth registration helps to protect children from two harmful practices typically associated with the need for improved birth registration: child labour and child marriage.

4.2 RESEARCH FINDINGS: CHILD LABOUR

Child labour is often defined as work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development. It refers to work that is mentally, physically, socially or morally dangerous and which is harmful to children and interferes with their schooling. Child labour should be targeted for progressive elimination and all worst forms of child labour for urgent elimination because they constitute heinous human rights violations.²⁵

It is important to note that not all work done by children should be classified as child labour to be targeted for elimination. Children's or adolescents' participation in work that does not negatively affect their health and personal development or interfere with their schooling is generally regarded as being positive. This includes activities such as helping parents around the home, assisting in a family business or earning pocket money outside school hours and during school holidays. These kinds of activities, if carried out at an appropriate age, for limited hours and excluding hazardous work, can contribute to children's development and to the welfare of their families, provide them with skills and experience and help to prepare them to be productive members of society during their adult life.²⁶

Very few research participants considered that protecting children from underage labour is related to birth registration. This was found to be the case across all four country case studies. While birth registration might be expected to play a role in protecting children from underage employment, it did not appear to do so in the contexts explored during this research, because child labour laws are not being properly enforced. Participants explained that children are working in spite of legal rules that prohibit child labour, even in cases where children possess identity documents, and/or where there can be no dispute about the fact that they are underage.

“The government is not implementing the law in the way that it should. There are children working on stalls. Small children washing pots and pans in the eateries.”
Former child labourer, Maharashtra, India

“Economics rules over morality. People don’t check documents. They just want cheap labour.”
Former child labourer, Mumbai, India

Participants explained that enforcement of child labour laws would not only frustrate the interests of employers, who benefit from the cheap labour children offer, but also the interests of children, who are driven to work as a means of survival. Respondents’ views resonate with research carried out by the Asian Development Bank that concluded that: “Powerful economic and political forces make it no one’s interest to monitor the enforcement of child labour laws, notwithstanding a child’s possession of a birth certificate.”²⁷

In general, the research revealed that cases where employers are being brought to account for illegally employing children are rare. There were cases in all four countries where compliance with child labour laws is being carefully monitored by companies themselves, and therefore birth registration becomes important. Our research indicates that the employers and companies that comply with regulations on child labour by requesting proof of age and identity are the employers providing the most well-paid, prestigious or stable jobs. Research participants specifically mentioned that they tend to be large companies, international organisations and corporations, and government bodies.

“[A birth certificate is required] if you’re working for the government, or if you have one of those office jobs.”
Mother, Port Loco, Sierra Leone

Given that some employers request job applicants to provide birth certificates, it could be argued that possessing a birth certificate might facilitate access to formal employment opportunities for those children who are legally permitted to work. Nevertheless, the evidence indicates that there may be other more fundamental barriers (than lack of birth registration) that prevent working children accessing jobs in the formal sector, including lack of education and high overall rates of poverty and unemployment. None of the children interviewed in the research were employed in the type of companies asking to see birth certificates; and none of these companies (interviewed in the research) were found to have employees under the age of 18 years. Furthermore, no children interviewed in the research reported that lack of a birth certificate was in practice a barrier to gaining work.

None of the (former) working children interviewed in the research reported being asked to show identity documents when they started work. The reason for this appears to be that the overwhelming majority of child labourers are working outside the formal economy and their labour is therefore unregulated. Children, in all contexts, are generally engaged in informal, unofficial and usually temporary employment, such as begging or hawking on the street, washing cars, selling vegetables, polishing shoes, caring for other children, working as domestic labourers, or in other forms of hidden employment found for them by family and friends.

Birth registration was therefore found to play little role in protecting children from underage, exploitative labour. The findings are of interest from a child labour perspective. They reinforce the fact that child labour cannot be addressed by the enforcement of laws alone but requires a fundamental drive to tackle poverty and unemployment.

4.3 RESEARCH FINDINGS: CHILD MARRIAGE

Birth registration should be a valuable means of protecting children from early marriage. However, few respondents felt that birth registration provided such protection. Many explained that possessing a birth certificate does not address or mitigate the factors that place children at risk of early marriage.

“Ninety-seven to ninety-eight per cent of marriages are [happening] for reasons of poverty. Certificates don’t have much to say. If someone wants to get married, they will.”
Young person, Maharashtra, India

This was found to be the case across all four country case studies. Early marriages were found to be regularly carried out in spite of knowledge about a child’s age, and regardless of whether they possessed a birth certificate. In other words, birth certificates are not protecting children from early marriage (in the contexts explored in the research) because minimum age of marriage laws are not being enforced.

The research findings suggest that there is a lack of interest in enforcing minimum age of marriage laws when these conflict with and contradict cultural and religious norms and traditions (because “society is bigger than the law”)²⁸, and challenge powerful patriarchal, economic, social and political interests such as a family’s desire to acquire a higher dowry payment, and the value placed on a bride’s youth and virginity.

“Birth registration has nothing to do with early marriage. Early marriage happens because of dowry. Parents marry off their daughters in the early stages so that they don’t have to give a higher dowry payment. Sometimes if the girl is underage and the man is old, he might even give money to buy the girl!”
Father, Mumbai, India

The overwhelming majority of marriages in (large parts of) India, Kenya and Sierra Leone reportedly take place through customary and religious ceremonies that do not require any form of proof of age. While participants were aware of legal rules governing the minimum age for marriage, they did not consider these rules to apply to the majority of unions and relationships that constitute marriage in these contexts. Most marriages were considered to be a matter of family, kinship and community, with little relationship to the law or

the state. Out of the four countries studied, only Vietnam registers most marriages. Even here, however, the practice of early marriage persists in some communities, generally taking place for reasons of early pregnancy, culture or custom. In these instances, marriages take place informally, and are not registered.²⁹

Researchers did hear of some cases where law enforcement, through age verification and the use of legal identity documents, had reportedly prevented individual instances of child marriage. These accounts, however, were rare. Significantly, the research did not reveal any cases where an adult was prosecuted for arranging the forced marriage of a child. However, problematically, the research did reveal cases where law enforcement was used to prosecute children involved in relationships families objected to. Although such prosecutions of children are not child-rights oriented, they nevertheless demonstrate the potential use of birth registration as a tool for enforcing the law, albeit in a manner detrimental to the rights of children. This suggests that birth registration has the potential to protect children if positioned within an integrated approach to the realisation of children’s rights. In this instance, birth registration has the potential to protect children when and where an appropriate child protection system and criminal justice laws are adopted and implemented.



5. GOVERNMENT AND GOVERNANCE



5.1 EXPECTED RELATIONSHIP: BIRTH REGISTRATION, GOVERNMENT AND GOVERNANCE

The expected relationship between birth registration and children’s rights is arguably strongest at the macro systems level. This is because birth registration data, as part of a CRVS system, provides information about the age, sex and distribution of the population, which is useful for the effective planning of services such as health and education. It has been suggested that disaggregating birth registration data according to demographic characteristics can reveal disparities and vulnerabilities in the population, which can assist governments to ensure that direct interventions are targeted towards those most in need. Such data can enable planners to predict population patterns accurately and allow for better allocation of resources and service delivery in the future, as well as enabling government to monitor the impact and effectiveness of programmes.³⁰

In order for birth registration data to be useful to governments, however, it must be accurate, disaggregated and comprehensive. It also needs to be included in a CRVS system. This means that birth registration rates within the country must be high (approaching universal) and the system effective and reliable. The data must also be available across relevant departments.

Furthermore, although civil registration data may support governments to perform a number of governance functions, it can, but does not necessarily, support the implementation of children’s rights. Birth registration does not have any inherent or direct impact on whether the state operates in a democratic fashion, has a governance system which is accountable, or is committed to providing services and delivering rights to children.

5.2 RESEARCH FINDINGS: GOVERNMENT AND GOVERNANCE

In Kenya, India and Sierra Leone, government officials were clear that at present civil registration data is not used for planning, policy development or resource distribution because birth registration rates are low and the systems in place are unreliable.

“The use of vital statistics is minimal because it is not quality.”

ICF International officer, Nairobi, Kenya³¹

Furthermore, and more surprisingly, despite high registration rates in Vietnam, government divisions responsible for planning and delivering services for children (the Ministry of Education, Ministry of Health and Ministry of Labour, Invalids and Social Affairs) reported that they do not consider the birth registration system or the data it generates relevant to their work.³² The reason for this view was not established in the study.

In all contexts, respondents reported that, where planning is based on statistical information about the population, government officials use census data or data collected at local level and not birth registration records, because this data is viewed as more accurate.

Despite current limitations, officials in Kenya and Sierra Leone explained that they aspire to use birth registration data for policy making and planning in the future, when data is complete and reliable. Respondents emphasised that civil registration data (which includes birth registration) is preferable to other forms of data (such as census data) because it is exact (not estimated), continuous and real time.

“All over the world, vital registration data is the most reliable because it is continuous, real time and provides a denominator for calculating all indicators in terms of demographic data. Census data is poor... It is delayed. All ministries depend upon this data. It is basic data that you need for planning. It is also incomplete.”

ICF International officer, Nairobi, Kenya

This was found to be particularly desirable for two central reasons. First, officials emphasised that birth registration data can provide information about the geographical distribution of the population in order to allocate resources, plan services, and determine the magnitude and location of interventions, especially in relation to health care.

“If you don’t know how many people or how many localities don’t have safe drinking water you wouldn’t know how many wells to go and dig. If you don’t know how many deaths occur as a result of childbirth, you don’t know the magnitude of the intervention [that’s needed]. You need data, you need information... A lot of the information that is routine in developed countries is not routine here.”

Senior Statistician, Ministry of Planning,
Freetown, Sierra Leone

Second, respondents explained that this data is essential for reporting to donors and development actors to justify the size, scale, location and funding of aid interventions. Civil registration data was also thought helpful in calculating development indicators (e.g. net enrolment rate, maternal mortality rate) to monitor the impact and outcome of interventions. Finally, several government officials in Kenya emphasised that birth registration records can be useful for managing refugee populations’ movements and access to rights and services.

While government officials in Kenya and Sierra Leone emphasised that data is necessary for rational and evidence-based decision making, they explained that limited resources and infrastructure are greater barriers to effective delivery of services. Additionally, they pointed to circumstances where data exists but the resources necessary to utilise the data are not there.

In Vietnam and India, in contrast to Kenya and Sierra Leone, birth registration data was not articulated as a priority for planning the delivery of children’s services by government officials interviewed during the research. However, government officials in Vietnam spoke of the usefulness of birth certificates as a tool for managing entitlement, access and use of government services, as well as the usefulness of data to enable government to ‘manage the population’ and ‘control the conditions’ of the population.

“The cities are becoming really overcrowded. [Birth registration is] a way of [controlling] population movements.”

District-level representative of the Department of Justice, Hanoi, Vietnam

delivery. It must rather be seen as one component of a broader system. In order to be effective, birth registration initiatives should be integrated with a range of other measures which take care to ensure a child rights approach to development and tackling poverty. For example: a rights-based legal framework; an interdisciplinary policy environment; and functioning and resourced information systems.

In particular, respondents mentioned the role birth registration data can play in supporting the government to monitor and control population growth and internal migration (which is thought to be leading to overcrowding in urban centres) and to monitor the gender ratio of the population (a concern in light of increasing rates of sex-selective abortion).

Monitoring gender-imbalances within the population was also consistently raised as a central purpose of collecting birth registration data in India. Additionally, participants in India also stated that there is an urgent need for more accurate demographic information about the population, given the current extent of corruption, identity theft, forgery and the number of people possessing false documents.³³

In general, evidence from the research showed that, while a complete and accurate birth registration system can provide great assistance to governments in planning services for children, civil registration data only becomes useful for planning where it is accurate, reliable and when resources are available. In the countries included in the study, birth registration was found to have not yet reached a sufficient level of accuracy and reliability to be used for this purpose. Furthermore, although birth registration has the potential to promote children’s rights, it may also be used for government purposes that are not rights friendly. Respondents from both government and the broader population, particularly in Vietnam, spoke of how civil registration (including birth registration) is used by the government to manage and control the population, sometimes in restrictive ways, particularly for restricting refugee and migrant rights.

Therefore, while it can be said that a strong birth registration system benefits governments by strengthening governance, depending on the context, it does not necessarily benefit children if the government in question has not adopted or does not adhere to a child rights approach. Therefore, birth registration cannot be isolated as a driver of rights-friendly planning and service

6. RECOMMENDATIONS



6.1 A HOLISTIC AND INTEGRATED APPROACH TO BIRTH REGISTRATION

The relationship between birth registration and access to other children’s rights and services was found to be complex and context specific. It is important to recognise that birth registration is only one component of a governance and legal system that could protect and promote children’s rights. Birth registration should not be implemented in isolation. Any birth registration initiatives should be integrated with other measures to fulfil children’s rights, such as governance, protection, education and health care and should be part of a comprehensive CRVS system.

Adopt a holistic, integrated approach to children’s rights when programming or advocating for birth registration. Approach birth registration alongside the multiple and interrelated root causes of child poverty, vulnerability and discrimination. Develop a means of integrating birth registration with broader programmes aimed at the promotion of children’s rights.

6.2 A CONTEXTUAL APPROACH TO BIRTH REGISTRATION

While birth registration is a right of all children under the United Nations Convention on the Rights of the Child, the substantive significance of birth registration varies according to the context. Lacking birth registration (and legal identity more broadly) appears to have the most severe impact on specific groups of children. Therefore, where children are at risk of exclusion through lack of a birth certificate, work needs to concentrate on increasing birth registration rates among the most vulnerable and excluded. This could include advocating for the removal of penalties, rules and restrictions that make birth registration and legal identity inaccessible to these groups, and encouraging the government to introduce a range of flexible procedures to support individuals to obtain birth certificates and other legal identity documents.

Focus any birth registration programmes on supporting non-registered children in those contexts where birth registration and legal identity have substantive significance and are concretely attached to rights and benefits.

6.3 AVOIDING UNINTENDED CONSEQUENCES OF BIRTH REGISTRATION INITIATIVES

All efforts to promote or increase birth registration must be consistent with human rights principles and standards. No child should be denied access to services such as health and education because they are not registered and all children should be entitled to access services irrespective of birth registration status.

Consider the potential unintended consequences of incentives and initiatives to promote universal birth registration and ensure that efforts to increase birth registration do not have any adverse impacts on the enjoyment of other rights, and address these instances in both advocacy and programming.

6.4 BIRTH REGISTRATION: A PLANNING AND POLICY ISSUE

Birth registration is a fundamental children's right and should be part of an effective civil registration system. The research suggests that civil registration systems and vital statistics have the potential to be a public good for individuals, governments and the wider global community.

Consider advocating for investment in effective, comprehensive and rights-based CRVS systems.

In particular advocacy efforts to strengthen CRVS systems should concentrate on:

Leadership and political mobilisation – to ensure clear, aligned and integrated responsibilities and accountability between key stakeholders (relevant government departments in particular). Action should be taken to remove blockages to the effective administration of a CRVS system around which donors and development partners can align their support.

A multi sectoral/stakeholder approach – the collection and use of CRVS information cuts across many sectors. National governments and regional bodies should ensure that planning and coordination between all CRVS stakeholders is carried out in a proactive, inclusive and productive manner.

Legal reforms – where CRVS requires the review or adoption of laws (e.g. legal provisions for digitalisation), these legal reform processes must respect, protect and fulfil human and children's rights.

Resources – to be leveraged at national, regional and global levels and based on a solid understanding of the financial implications and potential long-term benefits derived from an efficient, accurate, reliable and credible CRVS system.

Strategic communication – at global, regional and national levels, investment should be made in strategic communication campaigns to increase knowledge and awareness of CRVS systems (and the potential benefits they could provide).

6.5 RECOMMENDATIONS FOR FURTHER RESEARCH

The quantitative analysis for this research was constrained by the limited types of indicators relevant to birth registration that are included in available data sets. In the event of further quantitative analysis into the benefits of birth registration, it would be helpful to revise the type of data collected on birth registration to include more appropriate measures/indicators, such as dates of registration/vaccination.

A study on how civil registration and vital statistics systems are used for policy planning, resource allocation and otherwise promoting provision of services in a country with an effective CRVS system would strengthen evidence of the technical assistance needed for countries embarking on CRVS systems strengthening.

Consider conducting further research into the effects of birth registration and if and how it can facilitate the realisation of children's rights.

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21. Parents who have not legally registered their marriage and parents who have given birth to more than two children reportedly face barriers to registering their babies' births. Furthermore, children of disputed nationality (including those living in the mountainous areas that border China, Cambodia and Lao PDR and those born to fathers of foreign nationality) were also reported to face barriers to registration.
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33. In India, the government is currently seeking to introduce a national ID card system, which would involve scanning an individual's retina and taking their fingerprints.

Plan International

Plan has been working for and with children for more than 75 years. We currently work in 50 low- and middle-income countries across Africa, Asia and the Americas to promote children's rights and lift millions of children out of poverty. We focus on the inclusion, education and protection of the most marginalised children in partnership with communities, local and national government, and civil society.

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Part of the Coram group of charities, CCLC is staffed by lawyers and professionals bringing expertise in family, child and education law, as well as immigration, human rights, asylum and nationality law, including domestic violence and child protection.

International Observatory on Statelessness

The International Observatory on Statelessness (IOS) was created in March 2007 as a collaborative project between Oxford Brookes University and the Refugee Studies Centre, University of Oxford to: collate national data on patterns, types and conditions of statelessness to further knowledge; promote research on patterns and causes of statelessness by means of gathering data on the state of nationality and citizenship legislation, systems of protection, and factors that contribute to the problem of statelessness; and act as a clearing house for NGOs, academics, advocacy groups and policy-makers working on issues of statelessness. The IOS is currently based at Middlesex University, London.

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Plan
International Headquarters
Dukes Court, Duke Street, Woking,
Surrey GU21 5BH, United Kingdom

t +44 (0) 1483 755155 f +44 (0) 1483 756505