

# The Right of Registration: Development, Identity Registration, and Social Security—A Historical Perspective

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**Summary.** — Identity registration at birth is a UN proclaimed human right. However, it is not available in many of the world's poorer countries today. A national system of identity registration dates from 1538 in England and was used by individual citizens to verify their property and inheritance rights and by local communities to verify social security claims. This facilitated the effective functioning of a nationwide social security system and a mobile market in both labor and capital, contributing to Britain's pioneering process of economic development. Today identity and vital registration systems should also be a high priority for development policy as a democratic institution vital for turning the liberal rhetoric of rights into a reality of empowered individuals.

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## 1. IDENTITY REGISTRATION AS A UN HUMAN RIGHT

“Human rights” and “development” have been internationally dominant intellectual themes and policy projects throughout the last six decades, since the UN's Universal Declaration of Human Rights in 1948 and the founding of the World Bank in the same decade. There has been a liberal assumption that they go together, although only in the last two decades in the important intellectual project stimulated by Amartya Sen's work on entitlements and capabilities, has there been a consistent effort to think through this assumption.<sup>1</sup> In this article I want to draw attention to the significance of one practical aspect of both human rights and development, which seems to have been almost entirely overlooked.

This is the human right to an identity. To be precise, the right to have one's legal identity and relationship to significant others publicly recognized, securely registered, and accessible for personal use. I believe a correct appreciation of history indicates this to be of profound importance for both development and human rights. Without the legally sanctioned, secure,

and practically available capacity to prove one's identity, the political rhetoric of human rights, and the academic discourse of entitlements, functionings, and capabilities pioneered by Sen remains, at best, a set of ideals and aspirations for the world's anonymous poor. Most positive legal and civil rights enshrined in constitutional declarations and the socio-economic provisions granted by states to their citizens are

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inaccessible and practically worthless to unregistered or otherwise legally non-existent individuals.

The international blind spot for the significance of this particular human right is all the more baffling given that it is clearly and unambiguously enshrined in the UN International Covenant on Civil and Political Rights (ICCPR), which was adopted by the General Assembly in 1966 (and which entered into force in 1976 when 35 States Parties had ratified it). The second clause of Article 24 of the ICCPR states that:

Every child shall be registered immediately after birth and shall have a name.

In addition, Article 6, Clause 1 of the ICCPR states:

Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

In their authoritative summary of legal commentary on the developing jurisprudence of the UN ICCPR, *Joseph, Schultz, and Castan (2000, p. 22)* note that:

Article 6, the right to life, has been interpreted to incorporate a duty upon States to tackle infant mortality, epidemics, and to take measures to increase life expectancy.

This clause therefore has strong implications for the correct form that a national identity registration system should take. For nation states to take appropriate measures to protect and enhance the life expectancy of their populations, they must have at their disposal accurate and detailed information about patterns and trends of mortality and disease incidence. This requires a comprehensive national death registration system, something which all developed societies possess. However, most of the world's poorest countries have no such comprehensive registration system. The extremely important and valuable epidemiological work of the "In-depth" network of continuous demographic surveillance sites shows that this would be of enormous health-saving value to the world's poorest countries today.<sup>2</sup>

Thus, the ICCPR in fact creates an obligation on its participants to institute a full identity and vital registration system, including both births and deaths, (and since 1962 there has also been a UN Convention endorsing the importance of marriage registration, the third component of a full civic identity registration system, embracing

legal relationships to all significant others).<sup>3</sup> Additionally, *Joseph et al. (2000, p. 7)* point out that Article 2 creates a direct and immediate legal obligation on ratifying States to implement the substantive ICCPR guarantees:

A state is either fulfilling its obligation or it is not; Article 2(1) seems to allow no exceptions.

Of the 192 member states of the United Nations, 156 are parties to the Covenant, as of July 2006. Furthermore, virtually all the world's states have also signed up to the UN Convention on the Rights of the Child, Article 7 of which repeats the ICCPR statement regarding the right to identity registration.<sup>4</sup>

Article 6, Article 24 and Article 2 of the ICCPR, alongside Article 7 of the Convention on the Rights of the Child, would appear, therefore, to provide a sound and compelling basis in international law for almost all states in the world to have established a nationally comprehensive, efficient, and secure system for the registration of citizens' identities at birth and also, while they are about it, for the creation of a full vital registration system embracing death and marriage registration. However, a great many states in Africa, in Latin America, and in Asia, representing half or more of the world's population, have no effective national, universal system of registration at birth or at death (*Mathers, Fat, Inoue, Rao, & Lopez, 2005*). Although most nominally democratic states make efforts of varying degrees of efficiency to compile ballot registers for voting adults, many have not made any investment in a national system of identity or vital registration for their citizens. Why?

*Joseph et al. (2000, pp. 24–25)* provide some highly relevant interpretations of the reasoning which has been used by the HRC, The Human Rights Committee created under Article 28 of the ICCPR as the monitoring body which interprets the Covenant's law, when confronted with discrepancies between States Parties' behavior and the relatively unambiguous and universalist principles, which the same States have signed up to when endorsing the ICCPR. They identify two kinds of reasons for toleration or temporizing in relation to such discrepancies, rather than insistence on the judiciary immediacy apparently entailed by Article 2.

Firstly, the HRC "has never issued a consensus opinion on the relevance of cultural relativism...the idea that human rights values, including ICCPR norms, vary across cultures." "At issue is the degree to which human rights

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