

The Role of Identification in Ending Child Marriage

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The Role of Identification in Ending Child Marriage: *Identification for Development (ID4D)*

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Cover photo: A refugee filling an application at the UNHCR registration center in Tripoli, Lebanon.
Mohamed Azakir/World Bank.

Table of Contents

	ACKNOWLEDGEMENTS	iv
1.	INTRODUCTION	1
2.	CHILD MARRIAGE: A WIDESPREAD HUMAN RIGHTS VIOLATION THAT DISPROPORTIONATELY AFFECTS GIRLS	4
3.	BIRTH REGISTRATION AND CERTIFICATION: WHY THEY MATTER	7
3.1	BIRTH REGISTRATION AND CHILD MARRIAGE	9
3.2	SPOTLIGHT ON SYRIAN REFUGEES: CHILD MARRIAGE AMONG SYRIAN REFUGEES IN JORDAN AND THE ROLE OF BIRTH AND MARRIAGE CERTIFICATES	10
3.3	EMPOWERING INDONESIA'S POOR: CAN IMPROVED BIRTH CERTIFICATION HELP END CHILD MARRIAGE?	12
4.	USING ID TO ENFORCE CHILD MARRIAGE LAWS	15
5.	REMOVING THE BARRIERS: LEGAL REFORM AND POLICY DESIGN	19
5.1	BARRIERS TO BIRTH REGISTRATION AND CERTIFICATION	19
5.2	BARRIERS TO MARRIAGE REGISTRATION	20
5.3	REMOVING BARRIERS TO BIRTH REGISTRATION AND CERTIFICATION	21
5.4	REMOVING BARRIERS TO MARRIAGE REGISTRATION	22
6.	CONCLUSIONS	24
	REFERENCES	25

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1. INTRODUCTION

The 2030 Agenda for Sustainable Development’s Goal for Gender Equality (SDG5 to: Achieve Gender Equality and Empower Women and Girls) sets a series of ambitious targets that will measure progress towards attaining this goal. One such target is to: “Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation.”¹

Ending child marriage is integral to empowering women and girls. Child marriage is not only a human rights violation² but by forcing girls into adulthood and, frequently motherhood, before they are emotionally and physically mature, it also deprives girls of the ability to exercise choice—have agency—about their lives. Child marriage is closely associated with illiteracy and lack of education and exposes girls to a higher likelihood of suffering intimate partner violence and, in some countries, greater risk of contracting HIV (Klugman et al., 2014). The earlier a girl gets married, the higher is the impact in terms of health, education, and well-being (Wodon, 2015).

In many countries child marriage rates have remained high despite legislation that prohibits it, often dating back over several decades;³ a step change in women’s empowerment will be needed to eradicate this practice. However, embedding the goal within the SDG framework may offer greater potential for achieving progress than has previously been the case. Beyond SDG5 there are other goals and targets which can contribute to increasing women’s agency and empowerment. As Gelb and Dahan (2015) point out, one such example is SDG 16.9 “legal identity for all, including birth registration, by 2030,” as a clear legal identity can also make a significant contribution as an enabler to the realization of a number of other SDGs.⁴ For women and girl’s possession of a secure identity document is an important stepping-stone—enabling them to access services, claim their entitlements as citizens, and increase their voice and agency through participation in elections, standing for parliament and engaging in local and community level politics (Dahan and Hanmer, 2015).

Goal 16:9 also builds on and reinforces many earlier efforts by the UN to strengthen Civil Registration (CR) systems in order to advance human development goals. On several occasions for example, the UN has recommended strengthening CR systems, particularly birth and marriage registration systems, as a means to facilitate age verification and support the enforcement of marriage laws (see Box 1 on the following page). While there has been increasing attention on birth registration and the need to increase birth registration rates, there has been less attention on the importance of strengthening marriage registries. Nevertheless, marriage registration underpins the ability to claim many rights under the law. (See Box 5 *infra*)

In this paper we examine how efforts to achieve legal identity for all, including birth registration for all, can contribute to ending child marriage. We begin by setting out the current context presenting data on child marriage and its impacts and then turn to birth registration drawing out its links with fundamental human rights and development goals. We then present estimates of the numbers of unregistered children in the world’s global regions based on the World Bank Identification for Development Initiative (ID4D) dataset.⁵ We turn next to the link between birth registration and child marriage rates⁶ using data on birth registration in the 106 countries for which we also have data on child marriage. We find a correlation between high birth registration rates and low child marriage rates and discuss this link in the context of evidence on the underlying causes and drivers of child marriage. We explore the links between birth registration and child marriage in greater depth in two case studies: the first one examines the role of identity papers, particularly birth and marriage certificates, in the enforcement of minimum age of marriage laws for Syrian refugees in Jordan; the second one discusses how a recently adopted strategy

¹The Human Rights Council defines “child marriage” as a marriage in which at least one of the parties is a child and “early marriage” as a marriage involving a person aged below 18 in countries where the age of majority is attained earlier or upon marriage. The two terms are used interchangeably in international legal discourse (Human Rights Council, 2015).

²See Box 1.

³Bangladesh is one example where child marriage has been banned since 1929, yet rates of child marriage remain among the highest in the world (See, *infra*, section 4).

⁴Other linked goals include: Improving reproductive and maternal health which is addressed in Sustainable Development Goal 3, and Achieving education equality which is addressed in Sustainable Development Goal 4.

⁵ID4D Global Dataset. World Bank, 31 January 2016. <http://data.worldbank.org/data-catalog/id4d-dataset>.

⁶Child marriage rates refer to the percentage of women 20–24 years old who were married before they were 18 years old.

Box 1: KEY U.N. RECOMMENDATIONS ON CHILD MARRIAGE AND REGISTRATION OF VITAL EVENTS

The Human Rights Council 2015 *Resolution on Strengthening Efforts to Prevent and Eliminate Child, Early and Forced Marriage* recognizes that “birth registration, and marriage, divorce and death registration, are part of a comprehensive civil registration system that facilitates the development of vital statistics and the effective planning and implementation of programmes and policies intended to promote better governance and to achieve internationally agreed development goals, and that the absence of compulsory registration of customary and religious marriages is a major stumbling block for the implementation of existing legislation and other initiatives to prevent and eliminate child, early and forced marriage” and “urges States to strengthen their efforts to ensure free birth registration, including free or low-fee late birth registration, by means of universal, accessible, simple, expeditious and effective registration procedures, without discrimination of any kind, and marriage, divorce and death registration as part of the civil registration and vital statistics systems, especially for individuals living in rural and remote areas, including by identifying and removing all physical, administrative, procedural and any other barriers that impede access to registration and by providing, where lacking, mechanisms for the registration of customary and religious marriages[. . .]”

The Committee on the Elimination of Discrimination Against Women (CEDAW)'s General Recommendation No. 29 (2013) specifies that “States parties should establish a legal requirement of marriage registration and conduct effective awareness-raising activities to that effect. They must provide for implementation through education about the requirements and provide infrastructure to make registration accessible to all persons within their jurisdiction. States parties should provide for establishing proof of marriage by means other than registration where circumstances warrant. The State must protect the rights of women in such marriages, regardless of their registration status” (Para. 26)

On several occasions, the CEDAW Committee, concerned about the disparity in the minimum age for marriage for boys and girls, has urged State parties to ensure that their minimum age of marriage laws and other programmes to prevent early marriage are in line with international legal standards; and required States to register births and marriages as a means to facilitate age verification and support the effective enforcement of laws on the minimum age of marriage.

The Commission on the Status of Women, in its *Resolution 51/3 of 2007 on the forced marriage of the girl child* urges States to adopt and enforce requirements for registration of birth and marriage with the aim of definitively determining age at the time of marriage.

Sources: UN Human Rights Council, Strengthening efforts to prevent and eliminate child, early and forced marriage resolution, adopted by the Human Rights Council, 1 July 2015, A/HRC/29/L.15; UN Human Rights Council, Preventing and eliminating child, early and forced marriage: Report of the Office of the United Nations High Commissioner for Human Rights, 2 April 2014, A/HRC/26/22; Committee on the Elimination of Discrimination Against Women (CEDAW)'s General Recommendation on article 16 of the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/C/GC/29 (2013); Concluding observations of the Committee on the Elimination of Discrimination against Women A/57/38(SUPP); UN General Assembly, Report of the Committee on the Elimination of Discrimination against Women, 2002, A/57/38(SUPP).

to streamline the process for obtaining birth certificates in Indonesia can contribute to reducing child marriage. Despite evidence of a correlation, however, a policy pursuing universal birth registration is unlikely to have impact on child marriage rates unless it is embedded in broader efforts to end child marriage, including legal reform, advocacy, and national and local policies and programs which work with communities to change social norms and are designed to reach people that are at risk from being excluded from national efforts, for example refugees and internally displaced peoples.

Legal reform is a necessary first step to end child marriage, specifically to criminalize this practice, raise the minimum age for marriage to comply with international norms and standards, and make birth and marriage registration mandatory (see Box 2 on the following page). However, legal reform is only one element of a package of

Box 2: CHILD MARRIAGE IN INTERNATIONAL LAW

The International Bill of Human Rights, namely the 1948 *Universal Declaration on Human Rights* (Art. 16(2)), the 1966 *International Covenant on Civil and Political Rights* (Art. 23(3)) and the 1966 *International Covenant on Economic, Social and Cultural Rights* (Art. 10(1)) provide that marriage must be entered into with free and full consent of the intending spouses.

The 1962 *Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages* in its article 1 provides that this consent must be expressed by both parties in person after due publicity and in the presence of witnesses and of the authority competent to solemnize the marriage. The same convention (Art. 2) calls on State parties to specify a minimum age for marriage and provides that no marriage must be legally entered into by any person under the prescribed minimum age, except where a competent authority has granted a dispensation as to age, for serious reasons, in the interest of the intending spouses. Finally, all marriages must be registered by competent authorities in appropriate official registers (Art. 3).

The 1979 *Convention on the Elimination of All Forms of Discrimination against Women* (Art. 16) equally requires States to specify a minimum age for marriage and call on States to ensure, on a basis of equality of men and women, the same right freely to choose a spouse and to enter into marriage only with their free and full consent. CEDAW also provides that “the betrothal and the marriage of a child shall have no legal effect.” To that end, Article 16 of the convention calls on State parties to take all necessary action, including legislation, to specify a minimum age for marriage and to make the official registration of marriages compulsory.

The 1956 *Supplementary Convention on the Abolition of Slavery* stipulates a legal obligation to specify a minimum age for marriage and calls on states to encourage the celebration of marriages in the presence of a competent civil or religious authority where the intending spouses can freely express their consent. It also calls for the complete abolition of “Any institution or practice whereby a child or young person under the age of 18 years, is delivered by either or both of his natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person or of his labour” (Art. 1(d)).

policy reforms that are needed to address child marriage. Reforms in health and education sectors have proved to be complementary in many cases. For example, in Turkey extending the compulsory education age by three years changed parents’ and girls’ aspirations for the future—in just five years, the share of 15-year-old girls that were married fell by 50 percent. Interventions to expand economic opportunities have also provided incentives for preventing child marriage, and working closely with parents and religious leaders in the community to challenge social norms about the acceptability of child marriage are proving successful in many parts of the world (Karam, 2015).

Once an effective legal framework on child marriage is in place, well-functioning CR systems producing official documentation of births and marriages play a crucial role in the enforcement of child marriage and minimum age laws, as they provide undisputable proof of age of the intending spouses and allow relevant officials to avoid registering marriages that are in violation of the law. However, legal and regulatory barriers as well as practical problems, some fostered by gender inequality, still hinder the achievement of effective and universal birth and marriage registration. We document these barriers and present some examples for overcoming them.

2. CHILD MARRIAGE: A WIDESPREAD HUMAN RIGHTS VIOLATION THAT DISPROPORTIONATELY AFFECTS GIRLS

Child marriage remains pervasive in many countries worldwide: every year, 15 million girls are married before reaching 18 years (Girls Not Brides a, 2016). In developing countries, one in every three girls is married before reaching age 18 and one in nine is married under age 15 (UNFPA, 2015). If these current trends continue, 140 million girls will be married before 18 in a decade (UNFPA, 2014). Child marriage rates vary widely between countries ranging from over 70 percent in Bangladesh, Chad and Mali to less than 5 percent in Libya, Djibouti, and Serbia for example. Using data from 111 countries on current rates of child marriage combined with estimates of the population cohort of females aged 20–24 in 2015, we estimate that in 2015 67.5 million young women between the ages of 20 and 24 were married as children. The vast majority of child marriages take place in South Asia (see Table 1 below).

While boys may also be victims of child and early marriage, the practice predominantly affects girls (Human Rights Council, 2015). A comparison between the proportion of young women aged 15–19 who were married in 2003 and young men aged 15–19 who were married in the same year revealed a ratio of 72 to 1 in Mali, 8 to 1 in the US, and 6 to 1 in El Salvador (Girls Not Brides b, 2016). This gender gap persists even in countries where child marriage is less prevalent. In Moldova, 15 percent of women aged 20–49 were married before reaching 18 years, compared to only 2 percent of men (UNICEF, 2014). The World Bank’s *Women, Business and the Law 2016: Getting to Equal* report (2015) reveals that in 16 countries (out of 173 covered) the minimum age of marriage for girls is still lower than 18, and that Saudi Arabia, Yemen and Sudan have not set a minimum legal age of marriage; rather, girls are allowed to marry as soon as they reach puberty. Furthermore, in 12 of these countries, the minimum legal age for marriage is lower for girls than for boys (see Table 2 below). Even when the minimum

TABLE 1 Number of girls married as children (thousands), population estimates for 2015, regional distribution.

REGIONS	NUMBER OF WOMEN AGED 20–24 MARRIED AS CHILDREN	% OF TOTAL	NO. OF COUNTRIES
Africa	16,057	24	40
East Asia and Pacific	3,907	6	15
East and Central Asia	1,925	3	18
Latin America and Caribbean	6,309	9	19
Middle East and North Africa	2,472	4	11
South Asia	36,819	55	8
Total	67,489	100	111

Sources: Child marriage rates drawn from Demographic and Health Surveys, International Center for Research on Women and UNICEF using the latest data available for women ages 20–24; female population aged 20–24 in 2015 from UN World Population Prospects (2015).

age is set at 18, 162 countries allow exceptions to the minimum age, in the form of parental consent or court authorization. In other countries, customary and/or religious laws set different minimum ages and they may be used to override the civil law.

The impact of child marriage on a young girl's life is significant as it triggers a continuum of violations (Center for Reproductive Rights, 2013). For example, child marriage exposes young brides to early and forced pregnancies, which increases the risk of maternal and infant morbidity and mortality (Human Rights Council, 2014) and puts girls at greater risk of obstetric fistula and sexually transmitted diseases, including HIV/AIDS, as their husbands are usually older and have had more sexual partners. Psychological health is also threatened: child marriage imposes on young girls' duties and responsibilities they are typically not prepared for and keeps them in social isolation (Plan International and Coram International, 2015; ECPAT, 2015; and UNFPA, 2012). Age gaps between husband and wife can disempower the wife, and findings from a number of countries suggest that having a much older partner can increase the risk of intimate partner violence (Klugman et al., 2014). Furthermore, child marriage denies girls educational opportunities, as their new duties at home force them to drop out of school and be economically dependent on their spouses, thus perpetuating a cycle of poverty (Commission on the Status of Women, 2007). Wodon et al. (2015) find that in African countries with high rates of child marriage, child marriage and early pregnancies account for 15–30 percent of secondary school dropouts for girls and that in Sub-Saharan Africa each year of child marriage reduces the likelihood of secondary school completion by approximately four percentage points.

TABLE 2 Selected Countries Where the Minimum Legal Age for Marriage Is Lower than 18

COUNTRY	MINIMUM AGE OF MARRIAGE FOR BOYS	MINIMUM AGE OF MARRIAGE FOR GIRLS	COUNTRY	MINIMUM AGE OF MARRIAGE FOR BOYS	MINIMUM AGE OF MARRIAGE FOR GIRLS
1. Afghanistan	18	16	9. Qatar	18	16
2. Armenia	18	17	10. Saudi Arabia*	N/A	No minimum age
3. Bahrain	18	15	11. Sudan	No minimum age	No minimum age
4. Iran, Islamic Rep.	15	13	12. Syria, Arab Rep.	18	17
5. Kuwait	17	15	13. Timor-Leste	17	17
6. Lebanon	18	17*	14. Uzbekistan	18	17
7. Malaysia	18	16	15. West Bank/Gaza	16	15
8. Mali	18	16	16. Yemen, Rep.	No minimum age	No minimum age

Source: The World Bank, Women, Business and the Law 2016: Getting to Equal (2015) data on 173 economies.

*Not from WBL data.

Box 3. CHILD MARRIAGE: CONTRIBUTING FACTORS

Poverty, lack of education, social and cultural norms, conflicts and humanitarian crises all influence the likelihood of a girl being married before turning 18 or even earlier. Poverty is one of the main underlying causes of child marriage. An analysis of 55 developing countries found that girls living in poor households are twice as likely to marry before 18 compared with girls in higher income households as are girls from rural areas compared with girls from urban areas. In poor countries, especially in rural areas, a daughter is often viewed as a financial burden, and marriage is often perceived as an acceptable practice to shift this burden to another family. The traditional institution of the dowry, still in place in some countries, represents an additional economic incentive for child marriage: younger girls are typically considered more desirable and therefore command a lower dowry. Giving a young daughter in marriage early relieves a family from the financial burden of supporting her, while doing so at a lower dowry.

Child marriage is strongly associated with girls who have received little or no formal education. Lack of education is both a cause and a consequence of child marriage. Poor-quality schooling, overcrowding, unqualified teachers and gender-based violence at school often increase the viability of early marriage as an alternative recourse for many girls. Lower educational attainment reduces employment opportunities for girls and leaves them with no realistic options other than marriage. In turn, the new duties and responsibilities of married life cause girl brides to drop out of school.

Social norms on the control of female sexuality have a significant impact on child marriage. An early marriage is an acceptable practice in many societies where an unmarried girl is considered a potential threat to the family's reputation, either because she could engage in pre-marital sex or because she could be a victim of sexual harassment, which would be equally disgraceful. Stereotypical views of women's role in society further contribute to the acceptability and pervasiveness of child marriage: an age gap between husbands and wives can secure male dominance in the household and younger brides are regarded as more obedient and respectful of their husbands.

Conflicts and humanitarian crisis exacerbate girls' vulnerability to child marriage. They lead to an increase of the practice in crisis sites and protracted displacement settings, due to the higher risk of poverty and sexual violence in contexts where social networks and protection mechanisms are disrupted. In fragile states or contexts, fear of resisting tradition, fear of hunger and fear of sexual abuse make marriage seem like a refuge. For instance, the Independent International Commission of Inquiry on the Syrian Arab Republic noted an increase in child, early and forced marriage, since the eruption of the conflict, as families felt their daughters would be safer if married.

Sources: Parsons, J., J. Edmeades, A. Kes, S. Petroni, M. Sexton, and Q. Wodon, Economic Impacts of Child Marriage. *Review of Faith & International Affairs*, 13(3): 12–22, 2015; Plan International and Coram International, *Getting the Evidence: Asia Child Marriage Initiative*, 2015; Plan UK, *Breaking Vows: Early and Forced Marriage and Girls' Education*, 2011; Malhotra, A., A. Warner, A. McGonagle, and S. Lee-Rife, *Solutions to End Child Marriage—What the Evidence Shows*, International Center for Research on Women, 2011; Klugman, J., L. Hanmer, S. Twigg, T. Hasan, and J. McCleary-Sills, *Voice and Agency: Empowering Women and Girls for Shared Prosperity*, The World Bank, 2014; UNFPA, *Regional Situation Report for Syria Crisis*, Issue No. 33, 2015; World Vision, *Untying the Knot: Exploring Early Marriage in Fragile States*, 2013.

3. BIRTH REGISTRATION AND CERTIFICATION: WHY THEY MATTER

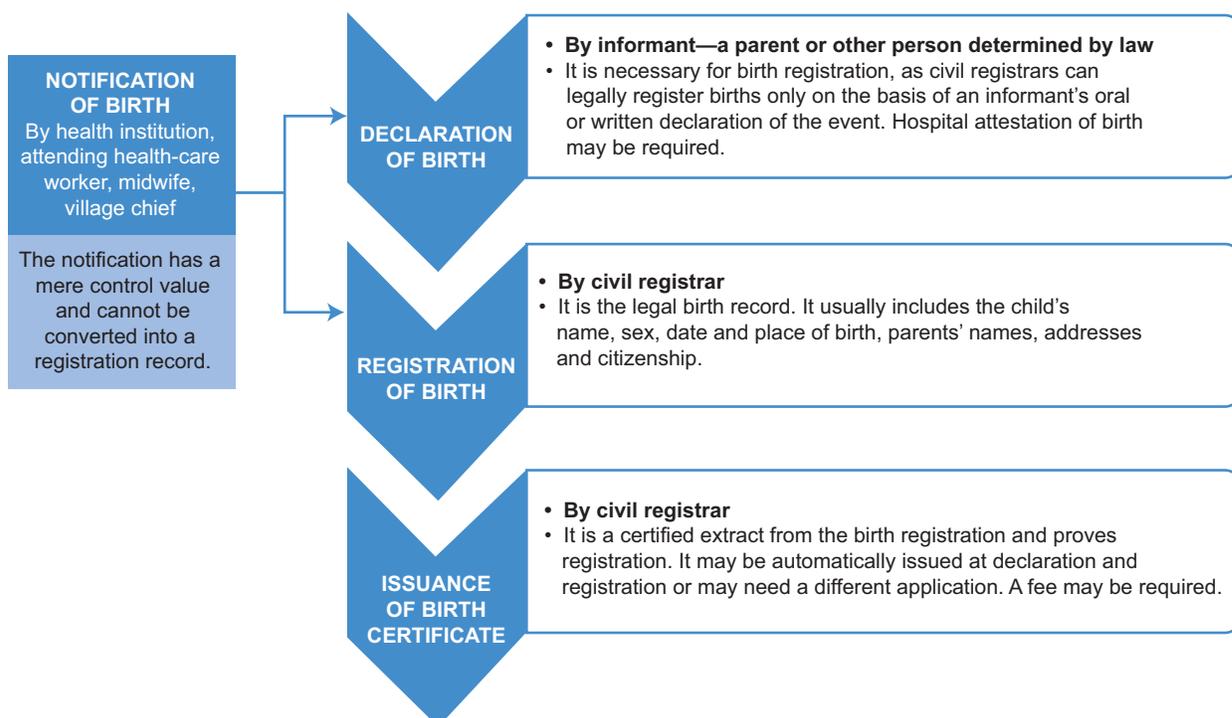
Birth registration is the official recording in the civil registry of the occurrence and characteristics of births, in accordance with the legal requirements of a country, and a birth certificate is the vital, certified record that documents the birth of a child and constitutes proof of registration (UNICEF a, 2013).

Figure 1 shows the steps taken in the birth registration and certification process. Birth registration is the first step toward an individual's recognition before the law and it is essential for the acquisition of a legal identity. Legal identity refers to an individual's legal status, a status that allows individuals to enjoy the legal system's protection by exercising rights and obtaining benefits and opportunities provided by the state (CRC4D, 2016 and van der Straaten, 2015). It underpins the enjoyment of basic human rights, including the right to a name, a nationality, and officially recognized familial relationships (CRC, Art. 7; Dahan and Gelb, 2015). Birth certificates are often used to establish legal identity as they have the advantage of proving age, place of birth, and familial relations. Individuals need birth certificates, as they are the basis for securing any other form of identification. They serve as "breeder documents," which are necessary to obtain IDs, passports, social security cards, or driving licenses (ID4D, 2015).

Birth registration provides an important foundation for child protection measures (UNICEF b, 2013). In many countries, unregistered children do not officially "exist" which makes them more difficult to trace and so easy victims of trafficking, commercial sexual exploitation, illegal adoption, infanticide, and other forms of abuse (UNHCR, 2013; SRSG on Violence against Children, 2012). Furthermore, as an official proof of age a birth certificate is a means to enforce laws designed to protect children including: juvenile justice proceedings providing protection to minors accused of a crime; labor laws that prohibit child labor; minimum age of legal marriage laws; and laws prohibiting conscription of minors into the armed forces (Apland et al., 2015).

FIGURE 1 Birth Registration and Certification Process

Birth registration and certification process



Source: UNICEF, 2013.

Birth registration and the possession of a birth certificate are also linked with the ability to access a wide range of services, including education, health care and social services, access to finance, and political participation, as well as with important activities throughout a person's lifetime, such as obtaining a job in the formal sector, voting, owning property and opening a bank account (Apland et al., 2015; UNICEFa, 2013; Save the Children, 2013; Dahan and Hanmer, 2015). And, by enabling adolescent girls to access services, such as education and vocational training, birth certificates can play an indirect role in preventing child marriage (ECPAT, 2015). Birth registration furthers equity by promoting inclusion and nondiscrimination. Indeed, only when registration is universal, is access to services and entitlements and to social and economic opportunities guaranteed to all in society (UNICEF, 2011).

Finally, birth registration also serves a broader, policy-related purpose as a fundamental tool for good governance and inclusive development, needed for the collection of reliable vital statistics (UNICEFb 2013; Vandenabeele and Lao, 2007). Governments need accurate population data in order to effectively design, implement, and monitor development policies and programs, especially in key areas such as health, education, housing, water and sanitation, employment, taxation and public spending, agriculture and industrial production. At the same time, analyzing demographic data allows monitoring population dynamics (size, differentials and trends) and tracking progress in areas such as maternal and infant mortality (ID4D, 2015; UNICEFa, 2013; UNICEFb, 2013).

In spite of these compelling reasons, universal birth registration and certification is still a long way off. The ID4D Initiative estimates that currently 171 million children under 5 years old are unregistered: 87 million boys and 84 million girls (see Table 3 below).

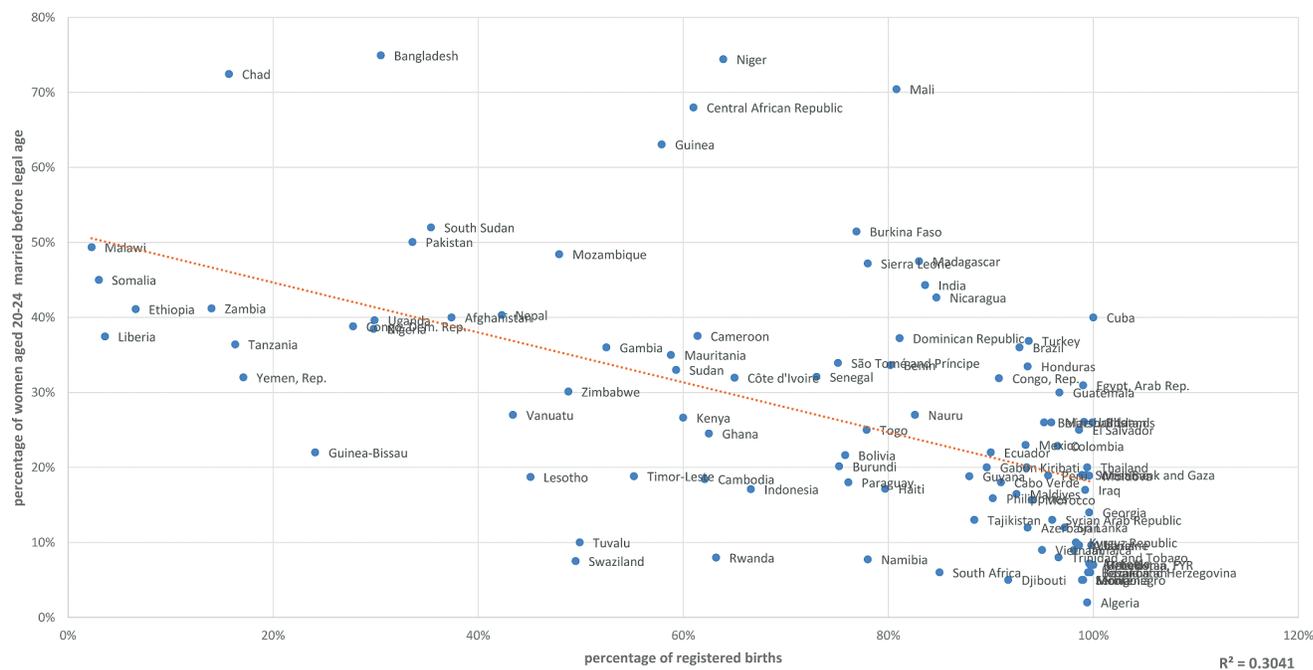
As Table 3 shows, the majority of children under five (95 million) whose birth has not been registered live in Sub-Saharan Africa where nearly one in two children, boys and girls alike, are unregistered. In the South Asia region 50 million children under five are unregistered and overall more than one in three children under five years old are unregistered. In East Asia and the Pacific one in eight children are unregistered. Overall there are more unregistered boys than girls but when these numbers are compared to their population shares (last two columns of Table 3) it appears that girls and boys are equally unlikely to be registered.

TABLE 3 Unregistered children (0–4 age group) by region

REGIONS	UNREGISTERED CHILDREN 0–4 YRS	UNREGISTERED BOYS 0–4 YRS (UM)	UNREGISTERED GIRLS 0–4 YRS (UF)	UM/TM ¹	UF/TF ²
AFR	94,808	47,892	46,898	44.3	44.8
EAP	16,926	8,800	8,120	13.0	13.0
ECA	789	364	419	2.0	2.0
LCR	4,053	2,048	2,003	8.2	8.4
MNA	4,782	2,390	2,388	7.8	8.1
SAR	49,738	25,711	24,022	34.7	35.6
Totals	171,098	87,206	83,851	17.3	17.5

Note: Data covers 168 economies within the World Bank Group regions. (1) Unregistered boys under five as a percentage of the total male under-five population (2) Unregistered girls under five as a percentage of the total female under-five population. Totals do not add up due to rounding errors. Source: ID4D database (2016).

FIGURE 2 Relationship between Birth Registration and Child Marriage



Source: ID4D dataset, 2016 and child marriage rate estimates as for Table 1.

3.1 BIRTH REGISTRATION AND CHILD MARRIAGE

We turn next to the link between birth registration and child marriage rates⁷ using data collected by the ID4D Initiative for 106 countries for which we also have data on child marriage. Figure 2 shows that on average there is a lower incidence of child marriage in countries where birth registration rates are high. Nevertheless there are many outliers, for example countries such as Mali and Cuba where birth registration rates of 80 and 100 percent are accompanied by high rates of child marriage, implying that the underlying drivers of child marriage outweigh any protection granted by birth registration.

Of course, birth registration and possession of a birth certificate alone do not prevent child marriage: the correlation between low registration rates and high incidence of child marriage reflects social norms and cultural traditions which, often combined with poverty and social exclusion, perpetuate child marriage and create obstacles to registration. In fact, little is known about the concrete effects of birth registration in preventing child marriage and more research is needed (Apland et al., 2015). So, we turn next to two country case studies to further explore the links between identity papers and child marriage. The first case study examines the role of birth and marriage certificates in the enforcement of minimum age of marriage laws for Syrian refugees in Jordan; the second one presents evidence on the links between birth registration, poverty and child marriage in Indonesia and discusses the policies recently implemented by the Government of Indonesia, which are designed to tackle barriers to registration, including social stigma.

⁷The child marriage rate is measured by percentage of women 20–24 years old who were married before they were 18 years old.

BOX 4: BIRTH REGISTRATION, ADVOCACY AND GIRLS' EMPOWERMENT: RUBI'S STORY

The global initiative to combat child marriage *Girls Not Brides* reports the story of Rubi, a Bangladeshi girl whose marriage had been arranged by her parents when she was 15. As a volunteer involved in the Because I am a Girl campaign raising awareness about the importance of birth registration, Rubi was aware of her rights and of the fact that the minimum age for marriage in Bangladesh was 18. She visited the Union Council Office together with a representative from Plan International where she explained the situation and produced her birth certificate, obtained when she was 6. She was well aware of the value of a birth certificate as she was at first denied admission to primary school because she was unable to provide a birth certificate. When her parents were summoned, they first tried to change her age on the birth certificate, but the Chairman of the Union Council was able to explain Rubi's rights and the legal consequences of child marriage, so that the arranged marriage could be avoided.

Source: Girls Not Brides, How Birth Certificates Help Tackle Child Marriage, Blog post, 2014.

3.2 SPOTLIGHT ON SYRIAN REFUGEES: CHILD MARRIAGE AMONG SYRIAN REFUGEES IN JORDAN AND THE ROLE OF BIRTH AND MARRIAGE CERTIFICATES

The ongoing Syrian conflict has caused an unprecedented refugee crisis, with more than four million people having already fled the country in search of refuge in neighboring countries. As of September 2015, Jordan was accommodating approximately 630,000 Syrian refugees who, among other challenges, face enormous difficulties in registering and documenting life events, particularly births and marriages.⁸ This case study shows how non-registration of marriages and lack of birth certificates among Syrian refugees in Jordan contributes to the increased prevalence of child marriage, a practice that already thrives in crisis situations such as conflicts and displacement.

The age of legal marriage in Syria is 18 for boys and 17 for girls, and marriage at a younger age is allowed with parental or court consent.⁹ Before the war, on average 13% of marriages celebrated in Syria involved an under 18-year-old.¹⁰ With the eruption of the conflict, and the constant flux of Syrian refugees reaching Jordan, the percentage of registered Syrian marriages involving girls aged 15–17 in Jordan has risen from 12% in 2011 to 25% in 2013 and 31.7% in early 2014 (UNICEFb, 2014) as fragile circumstances have imposed additional pressure on forcing girls into premature marriages (UNICEFc, 2014).

Marriage is perceived as providing financial security, protection, and status for girls in an insecure environment, and so many refugee families become more likely to marry their daughters at a younger age (UNICEFb, 2014). In fragile and conflict situations a number of drivers stand out. First, in situations of exacerbated poverty, such as in refugee camps, economic stressors on households are a constant worry and the bride price represents a considerable incentive to push girls into early marriage, leading not just to an increase in child marriage, but also to girls getting married at a younger age¹¹ (CARE, 2015; UN Women, 2013). Second, increased levels of sexual violence during conflicts represent a constant threat to the 'honor' of girls, and child marriage can be seen as a form of protection from sexual harassment within refugee camps, and a way to preserve the reputation of girls and their families (CARE, 2015; UNICEFb, 2014; Save the Children, 2014). Third, the status that marriage provides represents a further incentive for child marriage among refugee populations. Some families willingly opt for it to facilitate the entry of Syrian men into Jordan, as it is believed that family groups are accepted more easily

⁸Since arriving in Jordan, a vast number of Syrians have married and had children. UNICEF estimates that nearly 3,000 Syrians were married in Jordan in 2013 alone and that more than 27,000 Syrian children had been born in Jordan since 2011 (UNICEFb, 2014). As of May 2015, over 11,000 Syrian refugee women were reportedly pregnant (UNFPA, 2015).

⁹Personal Status Law of the Syrian Arab Republic, Legislative Decree n. 59 of 07/09/1953, Arts. 16, 18, and 26.

¹⁰UNICEF, MENA, Concern over child marriage among vulnerable girls in Jordan, July 16, 2014, at http://www.unicef.org/mena/media_9469.html

¹¹The spousal age gap in marriages involving girls is also cause for concern. In 2012, of all Syrian girls who had married between the ages of 15–17, 16.2% married men who were 15 or more years older, 31.8% married men who were 10–14 years older, and 37.2% married men who were 5–9 years older (CARE, 2015).

into the country. It is also reported that Syrian girls in the Za'atari refugee camp are married off to Jordanian men as a way of securing sponsorship that would allow them and their families to move out of the camp (Save the Children, 2014). And finally, lack of effective oversight and difficulty in applying domestic laws to refugee populations are additional contributory factors.

In Jordan, barriers Syrian refugees face in obtaining official ID mean that protective measures for girls afforded under Jordanian law are easily bypassed. For example, under Jordanian law, the minimum age for marriage is 18, approval by a court judge and the consent of the Chief Justice are needed to ratify a marriage involving a girl between 15 and 18 years of age¹² and court judges have the power to refuse to ratify underage marriages. In principal a marriage between Syrian refugees can be registered in Jordan through the religious courts, affording Syrian girls the same protection offered to their Jordanian counterparts. However, in practice difficulty in registering marriages hinders the registration of marriages and any way the documentation needed to enforce the law—the family books that show birth registration dates and the birth certificates—is likely to be missing.¹³ In Jordan, the process of registering a marriage for foreigners is lengthy and involves a security clearance,¹⁴ significant costs in money and time, and the provision of official identity documents that refugees often do not have.¹⁵ Lack of knowledge about the registration processes and other obstacles mean Syrian refugees often do not register their marriages, preferring instead to wait for their return to Syria and register them in a more familiar system¹⁶ (UNICEFb, 2014; Harvard IHRC and NRC, 2015). Although measures have been introduced to expedite and simplify the process, including waiving the fine for not registering the marriage, many refugees are not aware of them (CARE, 2015).

Syrian refugees in Jordan also face obstacles in registering births and obtaining birth certificates. When a child is born in Jordan, the parents receive a notification from the hospital or midwife, which needs to be taken to the Civil Status Department for the purpose of birth registration. The person registering the birth needs to produce proof of marriage in the form of a marriage certificate and an identity document. If these documents are in order, the Civil Status Department issues a birth certificate. However, lack of familiarity with the civil documentation process and difficulty in producing marriage certificates and identity papers needed for registration make it hard for Syrian refugees to register their children's births. As a result, a large number of Syrian children refugee do not have a birth certificate (Harvard IHRC and NRC 2015). Getting birth certificates for children who were born in Syria and whose parents fled to Jordan before registering their births has also been difficult as, until recently, the Jordanian Civil Status Department did not issue birth certificates for children not born in Jordan and their births had to be registered in the Syrian Embassy. Now, however, the Jordanian Civil Registry in Mafraq is issuing birth certificates on a weekly basis to refugee children born in Jordan.¹⁷

The consequence of all these hurdles is that many of these children remain unregistered. UNHCR (2014) reports that as many as 30% of Syrian refugee children in 2014 did not have a birth certificate and has alerted the international community to the risk that without any proof of identity or familial relationships these children risk becoming stateless. UNHCR is now working with governments and refugee communities in Lebanon, Jordan and Iraq to provide advice and assist refugees at registration and community centers.¹⁸ UNHCR as the lead of the protection sector works with legal, child protection and SGBV partners to ensure that marriage registration is effectively used as a protection tool for children in cases where early marriage has already taken place. These activities are not conducted in isolation but within a larger framework of prevention efforts and advocacy at community and institutional level as well as response services for adolescent girls. Standard operating procedures are available on marriage registration and the recently issued Guidelines for Integrating Gender-Based Violence

¹²Personal Status Law of Jordan, n. 36 of 2010, art. 10. Marriages before 15 are not permitted under any circumstances. (Id.)

¹³Many refugees left without documentation and others no longer have them in their possession. Harvard IHRC and NRC (2015) report that the Government of Jordan is working with UNHCR to return identity documents to Syrian refugees.

¹⁴Non-Jordanian couples need a letter of approval from the Syrian Ministry of the Interior (Harvard IHRC and NRC, 2015).

¹⁵In addition to the approval letter from the Mol in Amman, the documents needed include: proof of identity for the bride and groom, proof of identity for the bride's guardian and two witnesses; a health certificate issued by the Jordanian Ministry of Health; the Service Card issued by the Mol to all registered refugees; and a petition for a marriage contract addressed to the Shari'a court.

¹⁶While couples getting married in Syria comply with the religious requirements for the ceremony, they tend to register the marriage with the civil authorities later, for example, when a marriage certificate is needed to register the birth of a child or obtain travel documents (UNICEFc, 2014).

¹⁷UNHCR, Born in Exile, at <http://unhcr.org/FutureOfSyria/born-in-exile.html>, accessed May 2016.

¹⁸<http://www.unhcr.org/en-us/news/latest/2014/11/54589fb16/born-exile-syrian-children-face-threat-statelessness.html>

Interventions in Humanitarian Action provide guidance for the assessment of risks to children in humanitarian settings, including child marriage (Inter-Agency Standing Committee 2015).

3.3 EMPOWERING INDONESIA'S POOR: CAN IMPROVED BIRTH CERTIFICATION HELP END CHILD MARRIAGE?

Following a series of groundbreaking Constitutional Court and other courts' decisions, in January 2015 the newly elected President Joko Widodo signed Indonesia's Medium Term Development Plan, a plan which includes legal identity as the one of the services considered critical for empowering and supporting the Indonesian poor, and aims to achieving 77% of birth certification for children between 0–17 years in the 40% poorest segments of society, and 85% of all children aged 0–17, by 2019 (Yosi Diani Tresna, 2015).

In Indonesia, as in many other developing countries, there is a strong link between poverty and lack of official ID. Analyzing data from a household survey of 320,000 individuals in 2012–2013 the Australia Indonesia Partnership for Justice Baseline Study (2014) found that in the poorest regions of Indonesia between half and three-quarters of children do not possess a birth certificate and that half of the married couples did not register their marriage. In the poorest 30% of households, 71% of children under 1 year of age did not have a birth certificate; 58% of children between 1–17 years did not have a birth certificate; and, 88% of adults over 18 years did not have a birth certificate.

Findings from the study revealed a strong correlation between lack of a birth certificate and child marriage: in the poorest 30% of households, 25% of girls were married at 18 years or younger¹⁹ and 95% of these marriages involve girls without a birth certificate, 19% of girls were married at 17 or earlier (compared to 2% of boys) and 95% of these girls (9 out of 10 marriages) did not have a birth certificate. Most of these girls were out of school and only 0.3% were in school and so could possibly complete 12 years of education.

The reasons given for not obtaining a birth certificate for one's children were the difficulty and cost of obtaining the required documents and an overall cumbersome process. But the study also found that marital status and the marriage registration system played a role. If a couple was unmarried, or they were married according to a religious or customary ceremony and the marriage was unregistered, the child's birth certificate was issued with only the mother's name on it.²⁰ Legal recognition of paternity is thus linked to marriage. Unmarried couples or couples married according to religious or customary law have little incentive to register their children, as a birth certificate that does not carry the father's name implies that the child is illegitimate, something that carries stigma in Indonesia.²¹ Those married according to religious or customary law need a three-step process to obtain a birth certificate with both parents' names on it: legalizing their marriage in court; obtaining a marriage certificate from the competent authorities; and obtaining a birth certificate at the civil registry.

Since 2014, the Government of Indonesia has implemented a number of measures to tackle these barriers to birth registration including reforms to ensure that birth certificates can always include both parents' names, in an effort to address the obstacles related to cost, distance and knowledge identified by the Australia Indonesia Partnership for Justice (Sumner, 2015). Reforms include the removal of administrative fees, the provision of legal identity services through integrated and mobile services (Integrated Service Centers) in the villages,²² and the provision of legal identity services through child and maternal health services in certain districts across Indonesia.

¹⁹9% of girls from the poorest 30% of households were married under the age of 16 and none of these girls has a birth certificate or would complete 12 years of education.

²⁰Alternatively, they may formally recognize the child through a letter of recognition, and in this case have the name of the father in a side note on the certificate.

²¹The study found that 64% of those interviewed said that a birth certificate with only the name of the mother carries a stigma and they consider it an undesirable registration outcome. (Sumner, 2015)

²²Mobile Services indicate services provided at the village level, instead of in government offices and courtrooms located at the district level. Integrated services are provided by two or more agencies together on the same day at village level. (Australia Indonesia Partnership for Justice, Baseline Study on Legal Identity—Indonesia Missing Millions, 2014.)

Box 5: BENEFITS OF MARRIAGE REGISTRATION IN INDONESIA

Marriage registration is associated with a number of positive outcomes:

- A marriage certificate is necessary to obtain a birth certificate with both parents' names on it.
- Marriage registration can prevent child marriage.
- Legal registration of marriage determines the marital property regime, and therefore the allocation and management of property during marriage and at its dissolution.
- Legal registration of marriage is necessary to obtain family cards, which can be used to prove financial eligibility to cash transfer programs, subsidized health care and other government services.
- Proof of marriage is crucial in domestic violence charges.
- Proof of marriage simplifies inheritance procedures for children.
- Marriage registration means that marriage dissolution may only happen through legal divorce, which allows for clear division of assets and child custody arrangements.

Sources: Australia Indonesia Partnership for Justice, Baseline Study on Legal Identity—Indonesia Missing Millions, 2014, p. 56; Law of the Republic of Indonesia N. 23 of 2004 Regarding Elimination of Violence in the Household, Art. 2.

By 2015, 108 Integrated Service Centers (ISCs) have been held at the village level (Sumner, 2015; Gelb, 2015). At Integrated Service Centers, which can be held in village meeting-houses or schools and rotate on a schedule that is based on the demand for legal identity documents in different locations (Sumner, 2015), couples can legalize and register their marriage as well as register their children's birth and obtain a birth certificate. At each Integrated Service Center, couples can receive services from three different agencies: 1) the Religious or General Court legalizing the marriage; 2) the Office of Religious Affairs or Civil Registry issuing a marriage certificate; and 3) the Civil Registry issuing the birth certificate (Sumner, 2015).

The (ISC) model is expected to increase the number of children with birth certificates with both parents' names on it, as many couples have a religious marriage that has not been legalized. It will be important to ensure that the Religious Courts have the capacity to respond to the additional demand for marriage registrations. The number of marriage registration cases processed by the religious courts has already increased by large amounts, between 2009 and 2015 cases processed increased by 330 percent,²³ and reached almost 50,000 marriage legalization cases in 2015.

In August 2015, the Chief Justice of the Supreme Court of Indonesia clarified²⁴ how the courts will participate in integrated services together with the Office of Religious Affairs and the Civil Registry Office to legalize marriages and provide marriage and birth certificates through mobile services conducted at village level. The budget for judges to circuit to remote areas is included in the annual Supreme Court budget. Similar budget allocations need to be made to allow officials in the district Offices of Religious Affairs and Civil Registries to travel to provide these services together with the courts.

In February 2016, the Minister for Home Affairs (MHA) issued a Ministerial Regulation²⁵ (Number 9 of 2016) designed to further facilitate the procedure for obtaining a birth certificate for children of couples who had a religious marriage. The new MHA Regulation provides that the names of both parents can be included on the birth certificate, if they simply sign a Statutory Declaration stating that they have a religious marriage that has not yet been registered and that this religious marriage is referred to on their family card.²⁶

²³Private communication with Cate Sumner, April, 2016.

²⁴Supreme Court Regulation/Peraturan Mahkamah Agung (PERMA) No. 1/2015 on integrated and mobile services

²⁵Ministry of Home Affairs of Indonesia, Ministerial Regulation Number 9 of 2016.

²⁶Private communication with Cate Sumner, April, 2016. Religious Courts Data on marriage legalization cases can be accessed nationally, by province or by district through www.infoperkara.badliag.net

While these recent reforms are an important step in the fight against child marriage, a change in social norms and traditions supported by legal and policy reform is essential to effectively tackle child marriage in Indonesia. Traditionally, parents hold significant power and influence over children's choices in Indonesia, especially with regard to marriage. Surveys conducted by Plan International and Coram International reveal that, in the main, children express deference toward their parents, stating that if their parents wish them to marry they should obey and honor their decisions, even if that went against their own preferences (Plan International and Coram International, 2015). Poverty, low education rates, and social norms about female sexuality are all factors influencing parents' decisions to marry off daughters early (Plan International and Coram International, 2015) and need addressing as part of a comprehensive strategy against child marriage.

In this social context, legal reform to set the minimum age for marriage over 18 with no exceptions becomes crucial. Currently, while Article 6(2) of the 1974 Law on Marriage sets the legal age of marriage at 21 for males and females,²⁷ Article 7(1) allows girls to be married at 16 with parental permission, and boys at 19.²⁸ A recent (June 2015) Constitutional Court ruling upheld this law, rejecting claims of unconstitutionality raised by the Women's Health Foundation along with a coalition of five women's and children's rights activists and organizations.²⁹ In a society where decisions about children's marriage are predominantly made by parents, the parental consent exception is particularly significant, effectively lowering the legal age of marriage to 16 and 19 years for many Indonesians. The Constitutional Court ruling has however spurred a national dialogue around child marriage. Child marriage was selected as the focus of the 2015 Aliansi Jurnalis Independen (AJI) and UNICEF Media Awards in Jakarta,³⁰ where 318 journalists submitted reports on child marriage. In January of 2016, the Indonesian Coalition to End Child Marriage (Koalisi 18+) urged the government to issue a Perppu, a government regulation in lieu of law, to stop child marriage.³¹

By streamlining the process of birth certification through Integrated Service Centers the Government of Indonesian has taken important steps to encourage birth registration and achieve wider legalization of marriages. These reforms can also support more general strategies to combat child marriage, which is strongly associated with lack of a birth certificate in the poorest regions. An effective strategy against child marriage would also benefit from legal reform to eliminate any exceptions to the minimum legal age for marriage, and policy reforms to address the root causes of child marriage.

²⁷Law on Marriage of Indonesia, No. 1 of 1974, Article 6(2).

²⁸Law on Marriage of Indonesia, No. 1 of 1974, Article 7(1).

²⁹Constitutional Court of Indonesia (Mahkamah Konstitusi), Number: 68/PUU-XII/2014, June 18, 2015.

³⁰Child Marriage Takes Centre Stage at 2015 AJI-UNICEF Media Awards, August 14, 2015 at <http://unicefindonesia.blogspot.com/2015/08/child-marriage-takes-centre-stage-at.html>.

³¹Govt urged to issue Perppu to end child marriage, The Jakarta Post, January 7, 2016 at <http://www.thejakartapost.com/news/2016/01/07/govt-urged-issue-perppu-end-child-marriage.html>.

4. USING ID TO ENFORCE CHILD MARRIAGE LAWS

Legal reform is a first necessary step toward the elimination of child marriage. Not only is legal reform necessary to comply with established international legal standards (see Box 2 *supra*) but it also helps to change the social norms and behaviors that foster child marriage (Kenny and Dykstra, 2015). In the context of comprehensive efforts to end child marriage (which in addition to legal reform must include policies to address its contributing factors and advocacy at the national and local levels)³² high-quality, effective and continuous CR systems play a crucial role in ending child marriage. By providing undisputable evidence about the age of the intending spouses and recording and registering marriages CR systems underpin the effective implementation of child marriage laws.

To comply with relevant international law countries should at minimum enact legislation to: raise the minimum age of marriage to 18 years without exceptions³³ either in the form of parental or court permission³⁴ or in the form of customary law exceptions;³⁵ prohibit child marriage and make it voidable; make registration of marriages mandatory; make proof of age at marriage registration mandatory; and introduce statutory rape laws (see Box 6 on the following page).

As of 2014, child marriage was prohibited in 147 out of the 173 economies covered by the *Women, Business and the Law 2016: Getting to Equal* (World Bank, 2015). However, this alone does not prevent child marriage from happening: in fact, out of the top 25 countries with the highest rates of child marriage, 21 have legislation that prohibits it (see Table 4 on page 17). For example, in Bangladesh child marriage has been illegal since 1929, and the minimum age of marriage for girls has been set at 18 for girls and 21 for boys since the 1980s, yet the latest data show that 75 percent of women aged 21–24 were married before the age of 18 (Klugman et al., 2014). And, in some cases legislative loopholes exist. For example in Nigeria, although the 2003 Child Rights Act raised to 18 the minimum age for girls to marry, three different legal systems—the English common law system, ethnic customary law, and Islamic law—impose different rules for child marriage. The minimum age for marriage was raised to 18 in 2003 although marriage under 18 is allowed with the permission from the girl’s parents, but there is no minimum age for marriage under customary law and under Islamic law the minimum age of marriage corresponds to puberty.

³²A systematic review of child marriage interventions reveals that reform of the legal and policy framework is a necessary but insufficient part of the answer. Interventions are more effective when they empower girls with information, skills, and support networks; enhance the accessibility and quality of formal schooling for girls; and offer economic support and incentives for girls and their families to keep girls in school or marry later. Importantly, educating and mobilizing parents and community members in opposition to the practice is also a key intervention with proven success. Reframing the idea of girls’ transition to adulthood without marriage requires a dialogue with religious and community leaders who have a great deal of influence on these issues (Parsons et al., 2015).

³³Blank et al. have recently analyzed the effect of state laws governing the minimum age of marriage in the United States and argued that if minimum age laws were effective in delaying marriage, a sharp increase should be observed in the number of marriages around the legal cutoff. However, while this was the effect according to official marriage registrars in the 1950s, census records revealed a lower impact. The deduction is that minimum age laws produced two kinds of avoidance behavior: some people would get married in states with less restrictive laws and others would misrepresent their age on the marriage records (Blank et al., 2009).

³⁴For example, some states in the U.S. allow the marriage of minors with parental consent. Minnesota Statute 517.02 allows a 16-year-old to marry with the permission of parents, guardian or court, “after a careful inquiry into the facts and the surrounding circumstances.” In Mississippi, the minimum age for marriage of 17 for boys and 15 for girls can be waived with parental consent. In New Hampshire, parental and judicial consent can lower the minimum age to 14 for boys and 13 for girls, with parental and judicial consent. In Ireland, the Family Law Act of 1995 allows courts to exempt marriages from the application of the minimum age requirement (Sec. 33).

³⁵For example, in Sudan, the Personal Status of Muslim Act allows Muslim boys to marry as young as 10, and Muslim girls as soon as they reach puberty. In Eritrea, the Civil Code sets the minimum age for marriage at 18, but the Logo Chwa Code of Customary Law sets the minimum age of marriage at 15 for girls (Girls Not Brides, 2013).

Box 6: PROMISING LEGAL REFORMS TO END CHILD MARRIAGE

The 2015 Marriage, Divorce and Family Relations Act (Marriage Act) of Malawi raises the minimum marriage age for girls from 15 to 18, gives equal status to both spouses and includes a new requirement to register marriages with the government. This represents an important step toward amending the Constitution, which still allows girls and boys from 15 to 18 to be married with parental consent.

On January 20, 2016 the Constitutional Court of Zimbabwe made marriage under the age of 18 illegal in a groundbreaking case brought by Loveness Mudzuru and Ruvimbo Tsopodzi, two former child brides. They argued that as the 2013 Constitution had set the minimum age of marriage at 18 and called on the state to ensure that “no children are pledged into marriage,” the Zimbabwean Customary Marriages Act of 1951 was unconstitutional and discriminatory, as it allowed girls as young as 16 to be married with parental consent, while the legal age of marriage for boys was 18. The Constitutional Court ruled that all marriages before the age of 18 are illegal, including customary ones, and struck down the section of the Marriage Act allowing girls to marry at 16.

The Pakistani Criminal Law (Amendment) Act 2004 criminalizes the act of giving females for marriage as part of a compromise in dispute settlement between families or clans, known as sawra.

The Gambia’s Children’s Act of 2005 provides that “. . . no child is capable of contracting a valid marriage, and a marriage so contracted is voidable.”

In September 2012, Swaziland’s prime minister announced the government’s intention to enforce the newly adopted Children Protection and Welfare Act by prosecuting those who carry out the practice of Kwendizisa, which is the arranged marriage of a girl child to an adult man by a parent or guardian. Before the enactment of this law, customary practices like the Kwendizisa were allowed as long as they did not conflict with the constitution. While sexual activity with a minor girl was criminalized as statutory rape, it went unsanctioned when it occurred within the bounds of marriage. And marriage was legal for girls aged 15 and older in accordance with the 1920 Girl’s Protection Act. With the passage of the Children Protection and Welfare Act in 2012, perpetrators face statutory rape charges and a monetary penalty of R20,000 (\$2,400). The new law also penalizes parents and guardians who collude with adult men to orchestrate a child marriage. Offenders face prison terms of up to 20 years.

Sources: Marriage, Divorce and Family Relations Act (Marriage Act) of Malawi, 2015; Batha E., Zimbabwe court bans child marriage after challenge by former child brides, Reuters, Jan. 20, 2016; Criminal Law (Amendment) Act of 2004 of Pakistan; Children’s Act of Zambia, 2005; IRIN News, Child marriages banned, September 2012; Child Protection and Welfare Act of Swaziland, 2012.

As Table 4 shows, high rates of child marriage often persist even where strong legal frameworks exist as their enforcement is weak. Reasons for non-implementation include lack of awareness and training among law enforcement officials; corruption;³⁶ prevalence of customary practices and traditions related to marriage; as well as lack of formal registration of marriages and lack of birth certificates.³⁷ Despite having laws on the books for several decades,³⁸ only recently have courts in India and Bangladesh, where child marriage rates are high, started to rule on the importance of marriage registration and the enforcement of child marriage laws, including through ID verification (See Box 7 on the following page).

³⁶A study conducted by Plan International and Coram International in Pakistan, Bangladesh and Indonesia shows that in many instances civil registrar officers overlook or fail to verify the age of the intending spouses. Cases were reported where officials registered under-age marriages with the use of false documents or did not even require the parties to prove their age (Plan International and Coram International, 2015).

³⁷For example, surveys conducted by Plan International, Coram Children’s Legal Centre, and the International Observatory on Statelessness in India, Kenya and Sierra Leone show little correlation between the possession of a birth certificate and a lower risk of child marriage in practice, as marriage is predominantly celebrated through customary and religious ceremonies where no proof of age is required (Apland, 2015).

³⁸The Child Marriage Restraint Act passed in 1929 in British India and it has remained in force, with amendments, in India and Bangladesh.

TABLE 4 Top 25 Countries with Highest Child Marriage Rates

COUNTRY	CHILD MARRIAGE RATES—WOMEN 20–24	IS CHILD MARRIAGE VOID OR PROHIBITED?	COUNTRY	CHILD MARRIAGE RATES—WOMEN 20–24	IS CHILD MARRIAGE VOID OR PROHIBITED?
1. Bangladesh	0.75	Yes	14. India	0.44	Yes
2. Niger	0.74	Yes	15. Nicaragua	0.43	Yes
3. Chad	0.72	Yes	16. Zambia	0.41	Yes
4. Mali	0.70	Yes	17. Ethiopia	0.41	Yes
5. Central African Republic	0.68	Yes	18. Nepal	0.40	No
6. Guinea	0.63	Yes	19. Nigeria	0.38	Yes
7. South Sudan	0.52	No	20. Cameroon	0.38	Yes
8. Burkina Faso	0.51	No	21. Liberia	0.37	Yes
9. Pakistan	0.50	Yes	22. Dominican Republic	0.37	Yes
10. Malawi	0.49	No	23. Turkey	0.37	Yes
11. Mozambique	0.48	Yes	24. Tanzania	0.36	Yes
12. Sierra Leone	0.47	Yes	25. Brazil	0.36	Yes
13. Eritrea	0.47	Yes			

Source: ID4D, 2016; Women, Business and the Law, 2015

Box 7: THE ENFORCEMENT OF CHILD MARRIAGE LAWS THROUGH ID IN INDIA AND BANGLADESH

India. In the 2006 case of *Smt. Seema v. Ashwani Kumar*, the Supreme Court of India issued an order making registration of all marriages mandatory. The Court’s decision cited the National Commission on Women’s recommendations about the critical importance of marriage registration in areas such as: “(a) prevention of child marriages without consent of the parties[. . .] (b) deterring parents/guardians from selling daughters/young girls to any person[. . .] under the garb of marriage.”

Lawyers also used public interest litigation to address child marriage. In the 2003 case of *Forum for Fact Finding Documentation and Advocacy v. Union of India*, the FFDA, a human rights NGO, filed a PIL seeking “strict implementation” of the Child Marriage Restraint Act of 1929. The petitioner requested that the Court direct the respondent to “(a) require police officials to prevent child marriages from taking place; (b) hold government officials who fail to prevent child marriages liable; [. . .] (f) initiate criminal prosecution against parties responsible for child marriages; [. . .] and (h) make registration of all births and marriages mandatory.” On February 28, 2005, the Court issued an interim order noting that the Prevention of Child Marriage Bill had been introduced in Parliament and ordering government officials to prevent child marriages. The Court did not resume hearings on this case, but the introduction of the Child Marriage Bill in

(continued)

Box 7: CONTINUED

parliament has been attributed to the FFDA case. The Bill became the 2006 Prohibition of Child Marriage Act, which makes child marriage void or voidable; criminalizes the arrangement and solemnization of child marriages; and imposes an obligation upon the newly created Child Marriage Prohibition Officers to prevent the solemnization of child marriages.

Bangladesh. In the 2010 case of *Md. Abul Hossain v. Government of Bangladesh & Others*, the High Court Division of the Supreme Court of Bangladesh decided that marriage registrars are legally bound to stop child marriages. More recently, in 2012 the courts instructed the Bangladeshi authorities to register marriages using national ID cards. The *Bangladesh National Women Lawyers' Association* filed a Writ Petition requesting governmental authorities to direct all Muslim Marriages Registrars and Nikah Registrars to register marriages on the basis of National ID cards; to amend existing laws accordingly; and to digitalize the registration of marriages to prevent child marriage. The High Court Division of the Supreme Court issued an order to show cause as to why the respondents, namely the Ministry of Law, Justice and Parliamentary Affairs, the Ministry of Women and Children's Affairs, and the Cabinet Secretary should not direct the Nikah and Marriage Registrars to register marriages on the basis of the National ID card.

Source: Sood, 2006.

5. REMOVING THE BARRIERS: LEGAL REFORM AND POLICY DESIGN

Legal and regulatory barriers as well as practical obstacles still hinder the achievement of the goal of universal birth registration and certification, as well as mandatory marriage registration. A comprehensive and holistic strategy to end child marriage should support establishment of CR systems or strengthen existing ones and implement reforms to remove any barriers that prevent them functioning effectively.

5.1 BARRIERS TO BIRTH REGISTRATION AND CERTIFICATION

Legal and regulatory barriers to birth registration and certification exist when laws or regulations make the registration of births and the issuance of a birth certificate difficult or burdensome. Gender inequality plays a significant role in this regard and is a key factor behind non-registration of births, as some laws prevent women from registering the birth of a child or obtaining a birth certificate in the same way as a man (World Bank, 2015).

In some countries, only the father can register the birth of a child or he is the first in order of priority among the persons allowed to register the birth of a child. The same rules often apply for the issuance of a birth certificate. This is the case, for example, in Barbados,³⁹ Iran,⁴⁰ Swaziland,⁴¹ and the Syrian Arab Republic.⁴² In Bhutan, if the father is unknown, the birth of a child cannot be registered in the civil registry.⁴³

In other countries, women can register the birth of a child, but need some additional documentation, generally proof of marriage or the husband's authorization. In Egypt, while the father can always register the birth of a child, the mother may do so only if she provides proof of marriage. If she cannot prove her marital relationship, she can register the birth of her child if she attests in writing that the child is hers and provides testimony of a person who witnessed the birth of the child.⁴⁴ A birth certificate is issued automatically to the person who registers the birth.⁴⁵ In Kuwait, the original marriage contract is required to register the birth of the firstborn child. If the marriage has been celebrated abroad, the marriage certificate must be authenticated by the Ministry of Justice.⁴⁶ In addition, an authorization is needed when the applicant is not the father or legal guardian.⁴⁷ In Senegal, any person declaring the birth other than the father has to show a marriage certificate for the child's parents.⁴⁸

In some countries, when children are born out of wedlock, women alone cannot register the birth of their child.⁴⁹ For example, in the Islamic Republic of Iran, if the parents' marriage is not registered, both parents must appear before the civil registrar to register a child's birth.⁵⁰ In Nicaragua, a single mother can register the birth of her child alone when the father is unknown or does not recognize the child, but women living in consensual unions can register the birth of their children only temporarily. The father's signature on the birth record is needed for

³⁹Barbados, Vital Events Registration Act, 1981, Art. 8.

⁴⁰Iran, Islamic Republic of, Registration of Personal Status Code, Art. 13.

⁴¹Swaziland, Births, Marriages and Deaths Registration Act, 1983, Art. 15.

⁴²Syrian Arab Republic, Civil Status Law, 2007, Art. 23.

⁴³Bhutan Ministry of Home and Cultural Affairs, Department of Civil Registration and Census, Registration of Birth service, at <https://www.citizenservices.gov.bt/web/guest/birth-registration>

⁴⁴Egypt, Arab Republic of, Civil Status Code, Law No. 143 of 1994, Art. 20; Egypt, Arab Republic, Law No. 12 of 1996 Promulgating the Child Law Amended by Law No. 126 of 2008, Art. 15.

⁴⁵In Egypt, if the parents are forbidden to marry under Islamic Law, their names shall not be recorded on the birth certificate. If the mother is married and the newborn child is born to a father other than her husband, her name is not recorded on the birth certificate. If a non-Muslim father is married, and the child is born to a mother other than his legitimate wife, his name is not recorded on the birth certificate, unless the child was born either before marriage or after annulling the marriage, except for those persons whose religion permits polygamy. Law No. 12 of 1996 Promulgating the Child Law Amended by Law No. 126 of 2008, Art. 22.

⁴⁶Ministry of Health of Kuwait, Central Register for the Newborn and Deaths Department, Registering a Newborn Baby and Issuing a Birth Certificate, at http://www.e.gov.kw/MOH_en/Pages/ServiceContent/1062BirthCertificate.aspx

⁴⁷*Id.*

⁴⁸Ministry of Justice of Senegal, *Livret d'Informations Juridiques—L'Etat Civil*, 2009, at 8.

⁴⁹UNICEF reports that children born out of wedlock to single mothers or to fathers who are temporarily absent for work may not be registered because of discrimination against the mother or also in an attempt to protect the child from potential legal impediments in the future. (UNICEFa, 2013)

⁵⁰Iran, Islamic Republic, Registration of Personal Status Code, Art. 16.

the child to be recognized.⁵¹ In Uzbekistan, if the parents are married, the birth of a child born abroad can be registered by either one of them by providing proof of marriage. However, if the parents are not married, they both have to be present to register the birth.⁵²

Laws and regulations may also discourage from registering a child or requesting a birth certificate when they establish long procedures or impose fees that may be excessive for poor people. For example, in the Democratic Republic of the Congo birth registration and the application for a birth certificate are two separate processes. Once a child's birth is registered in the civil status registry, copies of a birth certificate can only be requested on payment of a fee.⁵³ In Burkina Faso, two witnesses are needed to register the birth of a child, such as a parent and midwife, and going back to the village to find witnesses is costly and challenging for women, who leave their birth villages when they marry.⁵⁴ In Eritrea, the fee for a birth certificate costs the equivalent of a week's rent in rural areas (UNICEFa, 2013).

Additional difficulties and risks arise in the case of those who are forced to leave their country by conflict, persecution, or natural disasters (Manby, forthcoming). Finally, poverty, lack of education, religion, ethnicity, language, and excessive distance from the nearest registration site have all some influence over birth registration and certification levels (Harbitz and Tamargo, 2009; Corbacho and Osorio Rivas, 2012). Sometimes, in rural and poor areas, traditional naming ceremonies are considered more important than official registration, or sometimes simply lack of knowledge of how to obtain a birth certificate constitutes an obstacle (UNICEFa, 2013).

5.2 BARRIERS TO MARRIAGE REGISTRATION

Legal barriers to marriage registration exist when the law does not make registration of all marriages, including civil, religious, customary, and polygamous ones,⁵⁵ mandatory. In India, marriage registration is governed by state laws and a number of personal laws. The Registration of Births and Deaths (Amendment) Bill of 2012, which aims to regulate marriage registration at the national level and made registration of all marriages compulsory, irrespective of religion, was introduced in Parliament but never approved.⁵⁶ Currently, marriage registration is not mandatory for Hindus, but only optional, and non-registration does not affect the validity of marriage.⁵⁷

An obstacle to proper registration also exists when the law does not make proof of age compulsory for marriage.⁵⁸ For example, the Ireland Family Law Act gives the registrar the option to request evidence that the minimum age requirement is met “if he or she so thinks fit” rather than imposing an obligation to verify the minimum age requirement.⁵⁹ Enabling this sort of discretion means that the law may be inconsistently implemented.

⁵¹Nicaragua, Civil Registry Procedures, Birth Registrations, at <http://www.managua.gob.ni/index.php?s=3050>

⁵²Uzbekistan, The Single Portal of Interactive State Services, at <https://my.gov.uz/en/faq/61>

⁵³Congo, Democratic Republic of, Family Code, Art. 114.

⁵⁴Burkina Faso Campaign brings 16,000 Women Closer to Voter Registration, at <https://www.ndi.org/burkina-faso-birth-certificates> [accessed April 2016].

⁵⁵For example, in states where polygamy is illegal, parties may simply avoid registering their additional marriages, The Advocates for Human Rights, 2011.

⁵⁶The Registration of Births and Deaths (Amendment) Bill, 2012, <http://www.prsindia.org/billtrack/the-registration-of-births-and-deaths-amendment-bill-2012-2305/>

⁵⁷Hindu Marriage Act, 1955, Section 8. Section 8 reads: “8(1) For the purpose of facilitating the proof of Hindu marriages, the State Government may make rules providing that the parties to any such marriage may have the particulars relating to their marriage entered in such manner and subject to such conditions as may be prescribed in a Hindu Marriage Register kept for the purpose.

8(2) Notwithstanding anything contained in subsection (1), the State Government may, if it is of opinion that it is necessary or expedient so to do, provide that the entering of the particulars referred to in subsection (1) shall be compulsory in the State or in any part thereof, whether in all cases or in such cases as may be specified, and where any such direction has been issued, any person contravening any rule made in this behalf shall be punishable with a fine which may extend to twenty-five rupees.

8(3) All rules made under this section shall be laid before the State Legislature, as soon as may be, after they are made.

8(4) The Hindu Marriage Register shall at all reasonable times be open for inspection, and shall be admissible as evidence of the statements therein contained and certified extracts there from shall, on application, be given by the Registrar on payment to him of the prescribed fee.

8(5) Notwithstanding anything contained in this section, the validity of any Hindu marriage shall in no way be affected by the omission to make the entry.”

⁵⁸In areas where there is no established birth registration or certification system, drafters may wish to provide for alternative means of age validation, such as witness affidavits or school, baptismal and medical records. It is important for laws to note, however, that any alternative source of information be an official one, and approaches should not in any circumstances be made to the family.

⁵⁹Ireland, Family Law Act, 1005, Sec. 33.

Box 8: THE POWER OF A BIRTH CERTIFICATE: TENT DEALERS IN RAJASTHAN AGAINST CHILD MARRIAGE

As many as 47,000 tent dealers in Rajasthan have joined forces against child marriage by refusing to supply tents for marriage ceremonies involving children. Members of the Rajasthan Tent Dealers Kiraaya Vyavsai Samiti have pledged to require from the bride and groom's parents proof of age in the form of a birth certificate before booking a tent for a marriage ceremony and inform the competent authorities in case a child marriage is arranged.

Source: 47,000 Tent Dealers in Rajasthan Refuse to Supply Tents for Child Marriage Ceremonies, The Better India, April 25, 2016.

5.3 REMOVING BARRIERS TO BIRTH REGISTRATION AND CERTIFICATION

In recent years, a number of initiatives and strategies have been adopted to promote birth registration and facilitate obtaining birth certificates.

Legal reform to allow women to register the birth of their children and obtain birth certificates in the same way as men is a first crucial step to promote birth registration and certification and ensure equality of opportunities for women. In 2006, Nepal updated its legislation with more gender-neutral language for its birth registration procedures. Previously, notice of a birth was given by the head of household, and in his absence, by the eldest male member of the family. Women as well as men can now be designated head of household, and the eldest male member no longer provides birth declaration if the head of household is absent.⁶⁰ In Mozambique either parent can register the birth and obtain a birth certificate,⁶¹ single mothers are free to register their children under their maiden name,⁶² and a woman may choose to register her child as having a father other than her husband.⁶³

Some countries impose a fine or a judicial procedure for late registration, as an incentive to prompt registration. For example, in Liberia, the law imposes a 50\$ fine if a child is not registered within 14 days after birth (UNICEFa, 2013). In Belize, if a child is not registered within 42 days of birth, parents must pay a fine for late registration. In addition they can be summoned within one year to register the birth.⁶⁴

As the payment of fees to obtain birth certificates has proved to be a barrier to registration, some countries, such as Burundi, Malawi and Madagascar, are introducing a free registration and certification system.⁶⁵ In 2007, Angola made birth registration and the issuance of birth certificates free for all children under five,⁶⁶ and a 2013 decree provides free birth registration and free issuance of birth certificates and IDs for all citizens until the end of 2016.⁶⁷

In some countries, the law links the possession of a birth certificate to the delivery of health and other services, as an incentive to registration and certification. In Bangladesh, a 2004 law mandates producing a birth certificate as proof of age required to access certain services, including passport applications, school admissions, marriage registration (see Section 5.4), employment in the public and private sector, driving licenses, voter list applications and the registration of land.⁶⁸ In Brazil, maternity hospitals provide birth registration services, allowing parents to start the registration process even before going home with their new baby.⁶⁹

⁶⁰Nepal, Law No. 2063, Amending Some Nepal Acts to Maintain Gender Equality, 2006.

⁶¹Mozambique, Civil Registry Code, Art. 119.

⁶²Id., Art. 149.

⁶³Mozambique, Family Law, Art. 238.

⁶⁴Id.

⁶⁵UNICEF, at http://www.unicef.org/esaro/factsonchildren_5781.html

⁶⁶Angola, Decreto n. 31/07 de 14 de Maio 2007, Registro Nascimento, Arts. 1–2, available at <http://www.refworld.org/country,,,AGO.456d621e2,46bad6752,0.html>

⁶⁷Angola, Decreto Executivo n. 309/13, Art. 1, available at http://www.scm.gov.ao/diploma_texto.php?diplomaID=117577

⁶⁸Bangladesh, People's Republic of, Birth and Death Registration Act, 2004.

⁶⁹Brazil, 2001 National Programme for the Promotion of Birth Registration. See also, [http://www.unicef.org/protection/Birth_Registration_Working_Paper\(2\).pdf](http://www.unicef.org/protection/Birth_Registration_Working_Paper(2).pdf)

To make the process easier and speedier, more and more countries are converting to innovative systems to register births and obtain birth certificates, including web-based applications and the use of mobile technologies. Bangladesh has introduced an online Birth Registration Information System, which allows registering births and obtaining birth certificates through an online application. All records are then stored in an online database, thus reducing delays, errors and inconsistencies inevitably caused by the former manual registration process.⁷⁰ The online birth registration information system aims at preventing tampering with birth dates to falsify the age of girls at marriage (Human Rights Council, 2014). An alternative preventative measure against the altering of birth certificates is to issue the certificate on secure paper. In Guatemala, the National Civil Registry (RENAP) issues birth certificates with security features, including pictures of the child and the parents, on secure paper.⁷¹

While in some countries, such as Kenya and Morocco, a birth certificate may be issued immediately upon birth registration, in others a separate application procedure is needed, which requires time and money, especially when travel to the registration facility is difficult. To overcome this obstacle, in Tanzania, birth registration and the issuance of a birth certificate have been recently combined into one process, which can be done at hospitals and health clinics at the time of immunization and is free of charge for children under five. Data are transmitted via text message to a centralized system.⁷²

The use of innovative technologies such as biometric IDs is proving successful also in related areas in identification and it is contributing to eliminate gender inequalities. In Pakistan, for example, the use of biometric IDs is required for cash transfers, thus allowing female beneficiaries to receive payments directly, rather than through their husbands or brothers, as had previously occurred. This system is effectively implemented via the introduction of women only registration centers operated by all female staff.⁷³

5.4 REMOVING BARRIERS TO MARRIAGE REGISTRATION

Legal reform making registration of all marriages mandatory and requiring proof of age at marriage registration is a fundamental step within a broader strategy to end child marriage.

In Sierra Leone, the registration of customary marriages is mandatory within six months of its celebration. The law further prohibits additional marriages under customary law when one of the parties is already in a Muslim, Christian, or civil marriage.⁷⁴ In Tajikistan, a 2009 Presidential order mandates mullahs to require a civil marriage certificate before performing a Nikkah marriage.⁷⁵

In Bangladesh, the 2004 Births and Deaths Registration Act stipulates that birth certificates must be used as proof of age for marriage registration (see Box 9 on the following page).⁷⁶

⁷⁰Bangladesh, People's Republic of, Online Birth Registration Information System (BRIS) at http://bris.lgd.gov.bd/pub/?pg=application_form

⁷¹Registro Nacional de las Personas de Guatemala (RENAP), Certificado de Nacimiento, at <https://www.renap.gob.gt/verificacion-de-certificado>

⁷²The Government of Tanzania launches a new national birth registration system set to massively accelerate the number of children under 5 with birth certificates, at http://www.unicef.org/esaro/5440_13078.html

⁷³Identification for Development: Its Potential for Empowering Women and Girls, at https://blogs.worldbank.org/voices/identification-development-its-potential-empowering-women-and-girls?cid=EXT_WBBlogSocialShare_D_EXT0

⁷⁴Sierra Leone, Registration of Customary Marriages and Divorce Act, 2007.

⁷⁵Institute for War and Peace Reporting, Marriage Vows Not Always Enough in Tajikistan, 30 January 2009, RCA No. 564, available at: <http://www.refworld.org/docid/498703ccc.html> [accessed 20 March 2016].

⁷⁶Bangladesh, Births and Deaths Registration Act, No. 29 of 2004, Arts. 5 and 18(3).

Box 9: BANGLADESH BIRTHS AND DEATHS REGISTRATION ACT No. 29 OF 2004

Article 18 “Evidential Value of Birth or Death Certificate,”

(1) The birth or death certificate issued under this Act shall be deemed to be one of the primary evidences of age, birth or death related information of a person to any office or court or school-college, government and non-government organization [. . .]

(3) Notwithstanding anything contained in any other law for the time being in force, the birth or death certificate shall be used to prove the age of a person in the following cases:

- (a) Issuance of passport;
- (b) **Registration of marriage;** (Emphasis added)
- (c) Admission into educational institutions;
- (d) Appointment in government or non-government organisation;
- (e) Issuance of driving license;
- (f) Preparation of voter list;
- (g) Land registration; and
- (h) Other cases as prescribed by rule.

6. CONCLUSIONS

With the adoption of the SDGs the international community has committed to ending child marriage as part of the overarching goal of achieving gender equality and empowering women and girls. Efforts to achieve the goal of universal identity for all, including birth registration by 2030 (SDG 16:9) play a critical role in ending child marriage. Strengthening CR systems is an important part of these efforts and an essential complement to legal reform to prohibit child marriage. An effective strategy to promote comprehensive and well-functioning CR systems for the purpose of ending child marriage must recognize the importance of both birth registration and marriage registration systems and include mechanisms for the mandatory registration of customary and religious marriages.

Birth and marriage registration provide equally important foundations to end child marriage. A birth certificate constitutes undisputable proof of age and is an essential means to enforce minimum age of marriage laws. At the same time, registering marriages is just as important as it is through marriage registration that proof of age can be used to refuse registration of an underage marriage and to make a child marriage void. Without mandatory marriage registration, child marriages may simply go unnoticed. Non-registration of marriages and lack of birth certificates among Syrian refugees in Jordan contributes to the increased prevalence of child marriage, already exacerbated by displacement, fear, and poverty.

A comprehensive strategy to strengthen CR systems and promote marriage registration must also include mechanisms for the registration of non-civil marriages. Those officiating religious and customary marriages can play a significant role in this regard and could be involved in the formal registration process by being required to report to CR systems and to verify the age of the intended spouses. The capacity of religious and customary courts and institutions to work with the authorities is therefore an issue that has to be addressed as considerably more demands may be made on these institutions.

Significant obstacles still hinder birth and marriage registration. Barriers to birth registration can stem from laws and regulations that make it difficult or burdensome. In several countries gender inequality plays a significant role in this regard as married women cannot register the birth of a child in the same way as a married man. Barriers to marriage registration occur where marriage registration is not compulsory and certain groups are exempted from having to register marriages on religious grounds or where customary laws rather than national laws are given preference. Legal reforms that remove gender-based inequalities under the law and other measures to streamline processes, make them less burdensome and lower their cost, can remove such barriers.

Strengthening birth and marriage registration systems, backed by legal reforms to establish sound legal frameworks against child marriage are essential steps to end this widely prevalent practice. However, as long as established social norms, poverty and, in some instances conflict and fragility are underlying causes of child marriage, its eradication requires a multifaceted response that also addresses these root causes.

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