



CHILD
IDENTITY
PROTECTION
Knowing origins is a right



O R I G I N E S



Briefing note to the CEDAW Committee on the child's right to identity including birth registration, name, nationality and family relations.

Since its establishment, the Committee on the Elimination of Discrimination Against Women (CEDAW Committee) has monitored the implementation of the right of women to have equal rights and joint responsibilities with regards to children (Art.5) which includes birth registration. The CEDAW Committee also ensures equal access in nationality matters, including in the transmission of nationality to children on an equal basis with men (Art.9) and protection of family relations (Art.16). These rights coincide with the child's right to identity in Arts. 7 and 8 of the Convention on the Rights of the Child.

The Committee's jurisprudence has evolved to address a wide array of challenges that threaten children's enjoyment of these rights – including discriminatory practices against women - providing a solid foundation of guidance on how these can be overcome. With the inclusion of legal identity for all, including birth registration, as an explicit target in the Sustainable Development Goals (SDG 16.9), the Committee's work to articulate the content of this right is more important than ever.

CHIP, ISI, UNICEF, UNHCR and its partners, welcome the significant contributions the CEDAW Committee has provided so far. Backed by a cadre of strong civil society advocates, working across a range of issues related to identity rights in different contexts and countries around the world, we stand ready to facilitate the work necessary to guide the Committee in its further engagement on this topic. To this end, we offer this short briefing note which reiterates the central importance of the right to identity to the achievement of all child rights; summarizes the major obstacles and provides an overview of current global efforts in response.

It is critical to further unpack the complex factors – both long-standing and emergent – that threaten children's identity rights. Complex emergencies, such as in Ethiopia, Syria and Yemen, present particular challenges to legal identity. Mass displacement, such as the one we are currently witnessing in South Sudan and Ukraine, and the birth of children to parents associated with armed groups, also pose significant challenges for the establishment, retention and reconstruction (if lost) of legal identity. The increasing use of assisted reproductive technologies raises complex questions about how a child's nationality and family relationships are determined, requiring further examination. Such areas would greatly benefit from further authoritative guidance from the Committee. The note also shows the existing scope to mainstream efforts to protect identity rights across the UN system and through associated initiatives.

The CEDAW Committee is uniquely positioned to provide guidance and oversight to ensure that discrimination against women and girls is addressed, including where it may result in obstacles to birth registration, lead to statelessness, or contribute to gaps in a child's identity in family relations. Legal identity is a precondition for claiming many rights under CEDAW. The CEDAW Committee can also encourage the use of a child's birth certificate as the primary document for proof of age to potentially prevent child marriage by encouraging legal identity for all and registration of all unions. To this end, CHIP, ISI, UNICEF, and UNHCR, with their partners in the Identity Rights Working Group, would respectfully request an opportunity to brief the CEDAW Committee on the issues highlighted in this concept note.

1. Right to identity: birth registration, name, nationality, and family relations

Birth registration: UNICEF notes that “*society first acknowledges a child’s existence and identity through birth registration. The right to be recognized as a person before the law is a critical step in ensuring lifelong protection and is a prerequisite for exercising all other rights.*”¹ A birth certificate documents the facts of a child’s birth – such as date, place of birth, family relations and name. Specifically the information concerning the place of birth and parentage is crucial for asserting a child’s right to nationality. Despite the right to birth registration, an estimated 200 million children under the age of five do not have a birth certificate, including an estimated 150 million children who are not registered.² Poverty³ and discrimination⁴ are among the main obstacles to accessing birth registration. Discriminatory civil registration laws may require both parents to register a child, allow only the father or other male family members to register the child, permit the mother to register the child only in exceptional circumstances, or require a marriage certificate – sometimes placing this requirement solely on women.⁵ Linking birth registration with the legal status of parents is a major cause of discrimination and results in the non-registration of children. Even if laws are not discriminatory, practices may be and lead to the exclusion of women and girls, including from vulnerable and migrant groups. For example, countries have developed strategies to restrict access to birth certificates for babies born to migrant women with temporary or irregular status, aiming to deter their permanent settlement. Moreover, while CEDAW guarantees women equal access to healthcare and administrative services, including birth registration (Art. 12), migration enforcement policies in countries deter undocumented women from accessing hospitals or registries due to deportation fears. These practices disproportionately affect marginalized women, contravening CEDAW’s principles. Additional challenges disproportionately affect children born as a result of conflict-related sexual violence (CRSV).⁶ **The meeting will also be an opportunity to discuss the lack of identity for children born of CRSV given the significant challenges they face.**

Substantial efforts are needed to register all newborns at birth and clear the backlog of unregistered children to recover from the full impact of the pandemic and accelerate the progress to achieve the 2030 Agenda of legal identity for all, including universal birth registration. Various strategies have already driven considerable progress, including those that simplified business processes, increased interoperability across sectors, and increased demand through policy and legislative reforms such as decentralisation and digitalisation. States should also decouple migration enforcement from public services such as prohibiting registrars from reporting undocumented migrants.

Nationality: At the end of 2023, UNHCR statistical reporting included 4,4 million stateless persons and persons with undetermined nationality covering 95 countries – although the actual global figure is expected to be significantly higher.⁷ One of the key causes of statelessness is gender discriminatory nationality laws and other laws such as civil registration and vital statistics (CRVS) as discussed above. Art. 9 of the CEDAW guarantees equal nationality rights, including in the transmission of nationality to children. Yet, in 24 countries, women are denied this right. When a child cannot acquire nationality through their mother, and the father is unable or unwilling to take administrative steps to confer his, the child may be left stateless.⁸ This denial of a child’s right to nationality is a clear violation of the child’s best interests. In addition to gender discrimination, statelessness among children can result from discriminatory laws, policies and practices that

¹ UNICEF. (2019). *Birth Registration for Every Child by 2030: Are we on track?* UNICEF. <https://data.unicef.org/resources/birth-registration-for-every-child-by-2030/>

² UNICEF (2024). *The Right Start in Life: Global levels and trends in birth registration*, UNICEF, December 2024, <https://data.unicef.org/resources/the-right-start-in-life-2024-update/>

³ *Op. Cit at 2.*

⁴ *Loc. Cit.* See also UN High Commissioner for Refugees (UNHCR). (2021, July). *UNHCR and UNICEF: Background Note on Sex Discrimination in Birth Registration*. <https://www.refworld.org/docid/60e2d0554.html>

⁵ *Ibid.*

⁶ Global Survivors Fund (2024) *Children born of Conflict-Related Sexual Violence and Rights to Identity* <https://www.child-identity.org/children-born-of-conflict-related-sexual-violence-and-rights-to-identity/>

⁷ UNHCR, *Global Trends: Forced Displacement in 2023*. <https://www.unhcr.org/global-trends-report-2023>

⁸ UNHCR/UN Women. *Background note on Gender Equality, Nationality Laws and Statelessness 2025* <https://www.refworld.org/reference/themreport/unhcr/2025/en/149603>

aim to exclude or have the effect of excluding people who are considered as foreign”, with an estimated 75% of the world’s stateless people belonging to minority groups.⁹ Migration, displacement, conflict, the re-drawing of borders, lack of birth registration, child separation or abandonment, and lack of recognition of family relations are all factors that can expose children to a heightened risk of statelessness. Finally, statelessness is often inherited, locking generations out of nationality and trapping both adults and children in a cycle of exclusion and discrimination.

Family relations: The right to have one’s family relations legally established or recognized is a right in itself and is essential to ensuring the right to a name and nationality. Article 16 of CEDAW affirms that there should be no discrimination in the establishment of family relations. Specifically, each person has a family history – genetic, gestational, social and legal – that contributes to his or her identity and origins. Family relations include connections that arise as a result of this history, continuity or separation, encompassing birth, adoptive and intending parents in surrogacy arrangements, gamete donors, siblings, grandparents and others. Without transparent and accurate information about family origins, children’s identity is incomplete. This may lead to children being excluded from benefits of legal parentage such as child support, and hereditary and maintenance laws. It may also lead to statelessness. Comprehensive information about family origins is further essential to ensure the highest attainable standard of health and well-being. Deprived of family health history, children and affected adults have less information about their genetic health risks.¹⁰

A further layer of complexity may be added to these situations, when multiple States are involved in the creation, modification and/or falsification of the child’s identity. Legal challenges may arise in identifying which State, courts or authorities have jurisdiction to decide on identity issues and which laws apply. Further, Civil Registration systems are generally not set up to ensure the automatic recognition of the child’s legal status across borders, from another State.¹¹ Challenges equally arise when information about origins is not stored appropriately, including in perpetuity and/or accessible, including in emergency situations, where records may be lost as discussed earlier.

2. Current efforts related to the right to identity

Significant efforts¹² are now underway within the UN Legal Identity Agenda and other frameworks to ensure universal birth registration and legal identity to all. Whilst these efforts have primarily focused on strengthening and implementing digital identity systems, other aspects of identity such as nationality and family relations¹³ have received less attention. Given the risks and opportunities associated with the legal identity agenda for the enjoyment of these identity rights, further work is needed in terms of preserving all these key elements of a child’s right to an identity – including addressing new questions that arise around the use of new technologies, such as biometrics, especially its relevance for children under five and newborns, data protection and privacy, and certain assisted reproductive technology practices.

Concrete and innovative efforts are required in terms of improving access to justice (SDG 16.3) and the States obligation to speedily re-establish the child’s identity whenever there are missing elements. This must include ensuring CRVS systems are set up to include information about the child’s family or birth histories, including when they are modified. Greater political will is needed to change laws, policies and practices, including lifting the statute of limitations for cases involving children to restore missing or falsified elements.

The Global Alliance to End Statelessness coordinated by UNHCR has a thematic working group on ending childhood statelessness co-chaired by UNICEF and CHIP which seeks to expand and strengthen international

⁹ UN Human Rights Council, Impact of the arbitrary deprivation of nationality on the enjoyment of the rights of children concerned, and existing laws and practices on accessibility for children to acquire nationality, inter alia, of the country in which they are born, if they otherwise would be stateless, 16 December 2015, A/HRC/31/29.

¹⁰ For example, World Health Organization. (n.d.). *Breast cancer: prevention and control*. <https://www.who.int/cancer/detection/breastcancer/en/>.

¹¹ Michaels, R., Ruiz Abou-Nigm, V., and van Loon, H. (eds). (2021). *The Private Side of Transforming our World - UN Sustainable Development Goals 2030 and the Role of Private International Law*, Intersentia Online, <https://www.intersentiaonline.com/library/the-private-side-of-transforming-our-world-un-sustainable-development-goals-2030-and-the-role-of-p>

¹² See [OHCHR report A/HRC/59/61: Use of digital technologies to achieve universal birth registration](#)

¹³ See work of Child Identity Protection (www.child-identity.org).

cooperation to combat childhood statelessness building on other initiatives.¹⁴ Engagement by the CEDAW Committee is critical to elevating the issue and to ensuring a rights-based approach to the avoidance and eradication of statelessness – one focused on the positive realisation of the right of every child to acquire and preserve their nationality irrespective of the gender of their parents.

Another avenue that could provide remedies in the context of establishing family relations when grave past abuses have occurred, is exploring transitional justice through the work of the UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence (UN SR on transitional justice), who has provided a comprehensive report on the design and implementation of apologies (e.g. motivation, acknowledgement and truth, timing, preparation the apology, after the apology: follow through, non-recurrence and reconciliation).¹⁵ This is particularly relevant in cases where children have been systemically removed from their families due to the status of their mothers including in countries such as Australia, Ireland, New Zealand and Switzerland. Transitional justice has been applied in the context of Ireland.¹⁶

3. Leveraging birth and marriage registration to prevent child marriage

Having a requirement of proof of age prior to celebrating and/or registering a marriage, reinforces the importance of a lifecycle approach to civil registration.¹⁷ Where the couple is required to provide legal proof of age, it is the civil registration office's responsibility to verify age using existing records. When individual events are handled separately, the registration system fails to benefit from its very strength. The State should be able to verify the age of the child through its own records.

The 1979 CEDAW notes in Art. 16(2) that *"the betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory."* While the 1989 CRC does not explicitly mention child marriage, harmful practices are prohibited (Arts. 19 and 24(3)).

In 2019, the CEDAW and CRC Committees issued a Joint General Comment on harmful practices, noting:¹⁸

42. *Contrary to their obligations under both Conventions, many States parties maintain legal provisions that justify, allow or lead to harmful practices, such as legislation that allows for child marriage*

43. *In States parties with plural legal systems, even where laws explicitly prohibit harmful practices, prohibition may not be enforced effectively because the existence of customary, traditional or religious laws may actually support those practices.*

To this end, the two Committees have recommended to States:

(g) *That a legal requirement of marriage registration is established and effective implementation is provided through awareness-raising, education and the existence of adequate infrastructure to make registration accessible to all persons within their jurisdiction;*

(h) *That a national system of compulsory, accessible and free birth registration is established in order to effectively prevent harmful practices, including child marriage;*

The meeting with the CEDAW Committee will be used to present desk research undertaken by UNICEF WCARO and CHIP in 11 countries in West and Central Africa to provide an exploratory overview of the potential opportunities that birth and marriage registration provide, if they operate, as intended. Specifically, it outlines the possibilities of how proof of age through birth certification may be used as a precondition for the marriage to be celebrated and/or registered.

¹⁴ For example, see the #IBelong campaign to End Statelessness by 2024, spearheaded by UNHCR (<https://www.unhcr.org/ibelong/>) and the related the Coalition on Every Child's Right to a Nationality (<https://www.unhcr.org/ibelong/unicef-unhcr-coalition-child-right-nationality/>); and the work of Institute on Statelessness and Inclusion (www.institutesi.org).

¹⁵ UNGA (2019). *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence*. Retrieved from: <https://undocs.org/en/A/74/147>.

¹⁶ For example, see Gallen, J (2022) Institutions and Ireland: Mother and Baby Homes and Transitional Justice, Irish University Review <https://www.eupublishing.com/doi/abs/10.3366/iur.2022.0545>

¹⁷ See webinar on this topic <https://www.child-identity.org/webinar-leveraging-birth-and-marriage-registration-to-prevent-child-marriage-in-11-countries-in-west-and-central-africa/>

¹⁸ [No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child \(2019\) on harmful practices \(CEDAW/C/GC/31/Rev.1–CRC/C/GC/18/Rev.1\)](#)