

Exploring the Interface Between Birth Registration and Citizenship Determination: A Scoping Study in Seven Countries in Southern Africa



Vital
Strategies



UNHCR
The UN Refugee Agency

April 2026

Abstract

Every child has a right to birth registration and a right to a citizenship from birth. In recent years, many countries in Africa have begun to link their civil registration systems and their national identity systems to streamline identity management and to implement the right to legal identity for all (Sustainable Development Goal Target 16.9). Based on research in seven countries in Southern Africa (Botswana, Eswatini, Lesotho, Malawi, Namibia, the Republic of Congo and South Africa), it appears that these linkages have in some countries resulted in civil registrars making a citizenship determination at the time of birth registration. Such practices are implemented even though civil registration authorities often lack the legal mandate, formal processes, and procedures needed to execute this function/role. Specifically, this analysis explored the legal basis, implications, and rationale for intertwining these two processes—a practice that has emerged without necessarily being deliberately intended. This analysis finds six of the seven countries have informal, non-standardized and non-transparent processes for citizenship determination at birth registration, without procedures for appeal if citizenship is denied. These practices increase the risk of rendering children stateless as they might wrongly be denied their right to citizenship without a pathway for appeal.

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Acknowledgment

This report was drafted by Anette Bayer Forsingdal and Lynn Sferrazza. The report is a joint initiative between Vital Strategies and the United Nations High Commissioner for Refugees (UNHCR). This report was supported by Bloomberg Philanthropies as part of its Data for Health Initiative. The views expressed in this publication are those of the authors and do not necessarily reflect the views or policies of UNHCR, the United Nations, or its Member States or the Bloomberg Philanthropies.

We would like to extend special and sincere thanks to governments that have engaged in open and honest discussions on practices, enabling a better understanding of the linkages between birth registration and citizenship determination, and the practical and operational challenges of separating these legal concepts.

We would like to thank all the people who have contributed to the development of this paper. Specifically, from the Ministry of Home Affairs, Immigration, Safety and Security, Namibia: Tulimeke Munyika; from the National Registration Bureau, Malawi: Rhoderic Langwe; from the Commissioner for Refugees, Kingdom of Eswatini: Zanele Mlambo; from the Regional Registrar, Kingdom of Eswatini: Andile Dlamini; from the Commissioner for Refugees, Kingdom of Lesotho: Nthatsi Thabane; from the Ministry of Labour & Home Affairs, Republic of Botswana: Dimpho Mathumo; from the Department of Legal Affairs at the Ministry of Justice and Human Rights, Republic of Congo: Frederic Odzalafrom; from UNHCR: Monika Sandvik, Benedicte Voos, Anne Laakko, Emmanuelle Mitte, Mariya Voloshkevich, Shriyan Sahadew Ramjeewan, Sarah Nayeja, Bienvenu-Lilian Ngombe and Madoda Leslie Nasha; from DLA Piper: Olivia Clark and Lara Elbornio; from Vital Strategies: James Mwanza and Martin W. Bratschi; from UNFPA: Romesh Silva; from UNESCAP: Tanja B. Sejersen; from UNDP: Mazen Gharzeddine and Debashis Nag; and from UNICEF: Bhaskar Mishra.



Windhoek, Namibia. Photo Credit: Wandel Guides / Shutterstock.com

1. Introduction

The 2030 Agenda for Sustainable Development, agreed by all United Nations Member States in September 2015, established a specific target: Target 16.9, “legal identity for all, including birth registration, by 2030.” SDG Target 16.9 recognizes that birth registration is the foundation for legal identity.¹

Registering children at birth is the first step in securing legal identity and their recognition before the law, and a crucial measure for the prevention of statelessness. Individuals can be at risk of statelessness if they have difficulties proving that they have links to a state. Lack of birth registration can create such a risk because birth registration attests to where a person was born and who their parents are—key pieces of information needed to establish which country’s citizenship they are eligible for or can acquire. While recording this information is essential, deciding a child’s citizenship during the birth registration process without legal authority, proper training, transparency, or legal recourse can lead to improper citizenship determinations, including an incorrect or “undetermined” designation, which carries a risk of statelessness for the child.

It is a generally accepted notion that birth registration and citizenship determination are separate legal processes. While most children acquire citizenship at the time of birth by operation of law (meaning citizenship is acquired automatically), traditionally, citizenship was affirmed later in life; for example, when applying for a national ID card or passport, or registering to vote. Unlike birth registration, enrollment in these identity systems is often limited to citizens, therefore, formal legal processes have been developed to vet and determine citizenship as part of the processes to enter such systems. This is particularly true for voter registration and passport issuance. While countries may offer an identity card to all legal

residents; citizenship and immigration status is typically indicated on the ID card. Thus, obtaining such an ID credential also requires a citizenship determination. While the facts captured in the birth registration record have always been critical to this confirmation or determination of a person's citizenship later in life, traditionally a formal citizenship determination is not made at birth.

In recent years, as countries have linked their civil registration and identity systems, a trend has emerged whereby citizenship has been determined as part of the birth registration process, effectively “intertwining”² these processes, even though civil registration authorities in most cases are lacking a formal legal mandate to do so. This practice of intertwining birth registration and citizenship determination—and the countries' rationales for doing so—have largely remained undocumented and poorly understood.

This analysis provides examples of this practice in seven countries in Southern Africa. The paper describes findings from an analysis of the nexus between civil registration and citizenship systems in the selected countries. The purpose was to understand current trends in national laws, policies and country practices on citizenship determination undertaken as part of the birth registration process. This paper explores and documents the emerging practices where civil registration authorities determine citizenship as part of the birth registration process. The paper goes on to examine the rationales and consequences of these practices and suggests ways forward, including questions that require further exploration by the international community.

The findings described in this paper can provide insights for government officials and policymakers about policies and practices related to civil registration, identity management and decisions regarding citizenship. The target audience of this paper includes international development organizations that support and provide guidance on improving civil registration and identity management systems, as well as international organizations focused on eliminating statelessness.



Gaborone, Botswana. Photo Credit: Bashi Kikia / Shutterstock.com

2. Methodology

This analysis draws on two complementary streams of desk review research. First, it reviews relevant international conventions, UN guidelines and policy papers regarding birth registration, citizenship, and statelessness. A detailed synthesis of this material is provided in Section 3 of this paper.

Second, this analysis examines civil registration and citizenship laws in seven countries in Africa. This legal review is supplemented with country-level insights gathered through online interviews with civil registration authorities. The analyzed countries are Botswana, Eswatini, Lesotho, Malawi, Namibia, the Republic of Congo and South Africa, all of which are members of the Southern Africa Development Community, with the exception of the Republic of Congo. Countries opted to participate in the analysis based on their engagement in the Symposium on Birth Registration, Citizenship and Statelessness at the University of Cape Town in November 2023, hosted by UNHCR and the University of Cape Town. At this symposium, the issue of intertwining citizenship and the birth registration process was raised and several participants provided evidence of the practice. Due to the lack of in-depth knowledge around this topic and its impact, one of the recommendations that came from the symposium was to conduct research and document country practices. Interviews for this research were carried out in 2024 with civil registrars from all countries except South Africa (for which detailed information was available in the public domain).

The country-level research focuses on the following questions:

- **Laws and processes:** Among the seven countries, which have a law that places responsibility on the civil registrar to determine the citizenship of a person whose birth is registered? Which countries do this in practice (not based on law)? How is such determination conducted in practice?
- **Safeguards against statelessness and due process:** Are safeguards in place to prevent statelessness? Are there clear procedures for challenging a determination of a child's citizenship in this context? Are there referral mechanisms in place to ensure citizenship of the child in undetermined cases?
- **Impact:** What is the impact of the intertwining of birth registration and citizenship determination on vulnerable populations, including refugees, asylum seekers, migrants, stateless people, children of unknown citizenship, and abandoned and orphaned children? Does uncertainty regarding the citizenship of the child or the parents result in the birth of the children not being registered?
- **Rationale for the intertwining:** What are the underlying reasons for countries making a citizenship determination as part of the birth registration process?

The questionnaire used for the interviews with the countries can be found in Annex 1.

Feedback and input on the findings of the research were received at a regional UNHCR workshop on statelessness in November 2024, hosting statelessness focal points from the Southern Africa Development Community Member States.

This analysis intended to document and describe emerging practices related to the intertwining of birth registration and citizenship determination, rather than to provide a comprehensive or empirically exhaustive assessment of their prevalence or impact. As such, the analysis does not aim to generate statistically representative findings, nor does it assess outcomes or impacts through systematic field research or quantitative analysis.

The following limitations should be noted. First, the country sample is limited to seven countries in Southern Africa and findings should accordingly not be extrapolated to the region as a whole or beyond. Second, primary data collection relied mainly on interviews with civil registration authorities, complemented by publicly available information, and did not include field-based research. As a result, the consequences of identified practices for individuals and communities are described largely on the basis of existing knowledge and reported experiences, rather than systematic empirical evidence.

Finally, this report should be understood as descriptive rather than prescriptive in nature. Its purpose is to shed light on current laws and practices, and to identify areas of legal ambiguity and potential risk, and surface questions that warrant closer examination. While the findings are intended to inform further policy dialogue, including the development of more targeted and actionable recommendations, this report itself does not seek to advance definitive policy or legal solutions. Rather, it provides an analytical foundation to support subsequent, more in depth analysis and consultative processes with a broader range of stakeholders.

3. Literature Review

a. International Human Rights Obligations

The right to birth registration and the right to citizenship (also referred to as “nationality” in legal documents)³ are fundamental human rights. These rights are set out in Article 24 of the International Covenant on Civil and Political Rights (ICCPR),⁴ Article 7 of the Convention on the Rights of the Child (CRC), and Article 15 of the Universal Declaration of Human Rights.⁵ These rights are also enshrined in the African Union’s Protocol to the African Charter on Human and Peoples’ Rights on the Specific Aspects of the Right to Citizenship and the Eradication of Statelessness in Africa⁶ (ACHPR Protocol on eradication of statelessness in Africa), which will come into force after ratification by 15 AU member states.

The relevant provisions of these conventions state as follows:

Article 24 of the ICCPR:

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.
2. Every child shall be registered immediately after birth and shall have a name.
3. Every child has the right to acquire a Nationality.

Article 7 of the CRC:

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a citizenship and, as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 15 of the Universal Declaration on Human Rights:

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 6 of the ACERWC, on Name and Nationality:

1. Every child shall have the right from his birth to a name.
2. Every child shall be registered immediately after birth.
3. Every child has the right to acquire a nationality.
4. States Parties shall undertake to ensure that their constitutional legislation recognizes the principles according to which a child shall acquire the nationality of the State in whose territory they were born, if at the time of the child’s birth they are not granted nationality by any other State in accordance with its laws.

Article 10 of the ACHPR Protocol on eradication of statelessness in Africa:

1. A State Party shall, in accordance with its national law, ensure that:
 - a. the birth of every child is immediately registered;
 - b. every child is attributed a nationality at birth or acquires a nationality as soon as possible thereafter.
2. A State Party shall ensure that in all judicial or administrative proceedings affecting the nationality of a child who is capable of communicating his or her own views, an opportunity shall be provided for the views of the child to be heard, either directly or through a representative, as a party to the proceedings, and those views shall be taken into consideration by the competent authority in accordance with the provisions of appropriate national law.

The power to regulate citizenship is an essential attribute of state sovereignty. However, international law imposes some limitations on the right of states to regulate citizenship. For example, international law prohibits discrimination on the grounds of race or gender on granting, loss and deprivation of citizenship.⁷ International law also limits states' right to regulate citizenship when national laws may result in statelessness. Specifically, the 1961 Convention on the Reduction of Statelessness⁸ aims to prevent statelessness and reduce it over time. It requires that states establish safeguards in their citizenship laws to prevent statelessness at birth and reduce it later in life. Articles 1 and 2 are essential to prevent statelessness. Article 1 establishes that children are to acquire the citizenship of the country in which they are born if they cannot acquire any other nationality. Article 2 requires that "A foundling found in the territory of a Contracting State shall, in the absence of proof to the contrary, be considered to have been born within that territory of parents possessing the nationality of that State."

b. Legal Concepts: Citizenship and Birth Registration

While every child has the right to acquire a nationality/citizenship⁹ from birth, birth registration and nationality determination have traditionally been treated as two separate processes, particularly in national systems that predominantly rely on *jus sanguinis* (right of blood) for the attribution of nationality at birth.

On a national level, the two processes have been governed by separate laws and separate "competent authorities."¹⁰ Specifically, the right to citizenship is in many countries governed by a country's constitution and citizenship laws, which may also designate the competent authority responsible for citizenship determinations, as well as stipulating formal processes. The right to birth registration, on the other hand, is governed by civil registration laws, which designate civil registration authorities and processes. This section describes general legal principles of citizenship and processes for citizenship attribution or acquisition, as well as best practices in birth registration, including linkage to national identity systems, and the relevance of birth registration data for citizenship determination.

i. Citizenship Legal Concepts

Principles of Citizenship: *Jus Soli and Jus Sanguinis*

The two main principles of citizenship are *jus sanguinis* (right of blood) and *jus soli* (right of the soil).

Under the principle of *jus sanguinis*, citizenship is determined based on the citizenship of one or both parents. If a country follows *jus sanguinis*, a child may acquire citizenship through their parent or parents. In some countries that follow *jus sanguinis*, citizenship may also be based on the citizenship of grandparents. In countries that follow the principle of *jus sanguinis*, the constitution or citizenship law commonly set out the conditions that must be met in addition to the citizenship of the parent. For example, children born abroad may need to establish or demonstrate certain ties to the country.

Under the principle of *jus soli*, citizenship is granted based on the place of birth. If a country follows *jus soli*, a child born within the territory of that country is automatically a citizen of the country, regardless of the citizenship of the child's parents.

Many countries use a combination of both principles, with different rules and exceptions. For example, some countries have rules where children born to foreign parents can acquire citizenship at birth if their parents have resided in the country for a certain period (e.g., 3-10 years). This is referred to as *conditional jus soli*. In some countries, children born to foreign parents can acquire citizenship at birth if at least one of their parents was also born in the country, which is referred to as *double jus soli*.

Modes of Citizenship Acquisition

Two major modes of citizenship acquisition exist: acquisition of citizenship at birth and acquisition of citizenship through various naturalization procedures.

The first mode of acquisition, "citizenship at birth," refers to the legal principle where citizenship is automatically granted to individuals when they are born,¹¹ either based on their place of birth (*jus soli*) or the citizenship of their parents (*jus sanguinis*). In legal terms, this is referred to as attribution of citizenship at birth. Citizenship at birth usually occurs through the "operation of law," which means that the process is automatic and there is no application process required.¹²

As there is no application process to establish citizenship at birth, birth registration is needed as evidence of the attributes that convey automatic acquisition of citizenship, including information about place of birth and parentage. Later in life, other authorities merely affirm citizenship status when providing documents such as a passport, voter registration card, or other document exclusive to citizens.¹³

The second mode of citizenship acquisition is naturalization, which is the legal process by which a person who is not a citizen of a country becomes a citizen of that country. This usually occurs later in life and is based on an application process with the requirements set out in national law, which may involve having a strong connection to the country, such as marriage to a national or long-term residence.

National laws may differentiate between "attribution" of citizenship (automatic at birth) and "acquisition" of citizenship (naturalization based on an application). This distinction between "attribution" and "acquisition" is explicit in the language used in the laws of some countries.

In other countries, however, “acquisition” is used to cover both attribution at birth and later acquisition based on an application process.¹⁴

ii. Birth Registration Legal Concepts

Civil registration is the “the continuous, permanent, compulsory and universal recording of the occurrence and characteristics of vital events pertaining to the population, as provided through decree or regulation in accordance with the legal requirements in each country.”¹⁵ Laws on civil registration set out the process and typically designate an agency and/or officials that have the power to register births. In this paper, the responsible agency and officials are referred to as the civil registration authorities.

Birth registration is a process within civil registration by which the birth of a child is officially recorded with the government, establishing the child’s legal identity.¹⁶ At a minimum, birth registration establishes the name of the child, date of birth, place of birth, and identity of the parent(s).

Linkage to the ID System

The specific processes of birth registration vary from country to country. However, there is consensus, as reflected in the United Nations Legal Identity Agenda, that a person’s legal identity is first established through birth registration and that the civil registration system should be linked and interoperable with the national identity system.^{17,18} Specifically, the UN recommends that data from birth registration be transmitted to a country’s identity and/or population register (automatically if digitalized). This is facilitated by the issuance of a unique identification number (UIN) at birth.¹⁹ The UIN—which may be generated by the civil registration or identity system or a population register—is assigned for life; it is typically stored in the birth register and may be printed on the birth certificate.

The UN recommends that if a UIN is assigned at birth, the characters used in the UIN sequence should be random and unintelligible; in other words, the sequence should not reflect personal characteristics such as citizenship, residency or refugee status, as this may make people vulnerable to discrimination.²⁰ This recommendation is reinforced in recent World Bank guidance for Building Statelessness-Sensitive ID Systems.²¹ Citizenship may change during the course of a person’s lifetime, and therefore characters reflecting such status would require recharacterization of the UIN sequence.²² Recharacterizing a UIN not only undermines the integrity and permanence of identity records across systems, but also creates confusion and practical difficulties for the person, who may face mismatched records, service access problems, and potential identity verification errors

It is also common practice that parents’ details are verified from the identity or population register during the course of birth registration. Therefore, ideally, the civil registration and ID systems are linked, and data is exchanged seamlessly to ensure a unique and trusted identity of all residents from birth to death.²³

Overall, countries around the world are increasingly linking their civil registration and ID systems to strengthen identity proofing—a trend clearly visible in Southern Africa, where Angola, Botswana, Eswatini, Lesotho, Malawi, Namibia, South Africa, Zambia and Zimbabwe already operate integrated identity system models, while Madagascar is in the process of linking its systems.



Maseru, Lesotho. Photo Credit: Homo Cosmicos / Shutterstock.com

Relevance of Birth Registration Data for Citizenship Determination

The facts captured in the birth registration record—place of occurrence and information about the parents—are critical to the determination of the child’s citizenship. In many countries, a person who acquired citizenship at birth by operation of law has traditionally claimed citizenship by providing a birth certificate at the time of application for a passport, or another document exclusively available to citizens, such as voter registration.²⁴ A birth certificate may also be used by a person to acquire citizenship later in life by establishing facts that fulfill naturalization requirements.

Because basic facts about a birth are needed to establish citizenship, UNHCR recommends that the citizenship of the parents should be captured during birth registration.²⁵ However, there is no clear guidance for recording the citizenship of parents where the citizenship might not be easily verified, such as for refugees lacking adequate documentation, stateless persons, persons with undetermined citizenship and undocumented persons.

Further, while citizenship of the parents should be recorded in the birth registration record, there is no clear guidance on inclusion of citizenship—of the parent or the child—on the birth certificate. Recent articles on birth registration and statelessness in Africa call for more clarity on stating and marking citizenship on birth certificates, including the citizenship status of the child and parent(s).^{26,27} According to the United Nations Guidelines on the Legislative Framework for Civil Registration, Vital Statistics and Identity Management,²⁸ and a UNHCR briefing note on birth registration,²⁹ the citizenship of the child should not be recorded on the birth certificate as this could result in discrimination against non-citizens.

4. Findings of Country Research

This section describes the findings from the country legal research and interviews conducted with civil registration officials from Botswana, Eswatini, Lesotho, Malawi, Namibia and the Republic of Congo, as well as findings from desk research for South Africa. The subsections describe: a) progress in civil registration system strengthening and the linkage to ID systems, b) documentation of citizenship determination at birth registration, c) the legal basis for citizenship determination at birth registration, d) the impact on individuals as a result of the intertwining of the processes and e) the rationale for intertwining birth registration and citizenship determination.

a. CRVS System Strengthening Efforts and Linkage to ID Systems

The countries analyzed here have all made enormous strides over the past two decades towards improving their civil registration systems and ensuring the recognition of the right of birth registration of every child born within their territory. As part of the improvements, all the countries except the Republic of Congo³⁰ have at least partially digitalized their civil registers and linked them with their ID systems or national population registers (see Table 1).

The countries analyzed have also sought to improve accessibility to civil registration services by expanding their office network, strengthening cooperation with the health sector, and organizing mobile campaigns, some of which target vulnerable population groups.

Also, some of the countries have recently amended their legislation: In 2024, Botswana, Eswatini and Namibia passed new civil registration laws. Botswana has a new act under consideration with stronger safeguards for vulnerable populations.^{31,32,33} The level of completeness of birth registration varies among the countries, with Botswana having the highest completeness rates at close to full registration.³⁴

Table 1: Linkage between civil registration and the ID system

	Botswana	Republic of Congo	Eswatini	Lesotho	Malawi	Namibia	South Africa
Linkage between birth registration and the ID systems and issuance of unique ID number (UIN)	Systems are linked. UIN is generated at birth but only issued at 16 years of age and when applying for ID card.	Systems are not currently linked. New system for linkage under development.	Systems are linked. UIN issued at birth.	Systems are linked. UIN issued at birth if the child is a citizen.	Systems are linked. UIN issued at birth if the child is a citizen.	Systems are linked. The new Civil Registration and Identification Act allows for issuing UIN at birth.	Systems are linked (for citizens and permanent residents). UIN issued at birth (for citizens and permanent residents).

b. Documentation of Citizenship Determination at Birth Registration

Six of the seven countries analyzed—all but Republic of Congo—have implemented processes for the determination of citizenship at the time of birth registration for children born in the country.

In addition, five of the six countries, all but Namibia, have a process for birth registration and citizenship determination for children born outside the country whose parents are citizens. As described below, these citizenship determinations are reflected in the birth registration record and/or birth certificate.

Children born in the country: Denoting citizenship on the birth registration record and certificate

All seven countries record the citizenship of the parent(s) in the birth registration record. In addition, 6 out of 7 countries (all but the Republic of Congo), the citizenship of the child is either explicitly recorded, or denoted in some other manner, in the birth registration record. Four of the seven countries (Botswana, Lesotho, Malawi and Namibia) explicitly record the citizenship of the child in the birth registration record. Two countries denote the citizenship of the child in other ways: In Eswatini the child's UIN (which is in the birth registration record) indicates citizenship through a numeric code, and in South Africa, the birth of a child of citizens and permanent residents is recorded in the electronic register. The births of all other children are recorded in a paper register only, thereby denoting the child's non-citizenship status. Only the Republic of Congo does not denote the child's citizenship in the birth registration record.

In all seven countries, the citizenship status of the parent(s) and/or child is reflected in some way on the birth certificate. As described below, some countries explicitly state the citizenship of parents(s) and child, while other countries indicate citizenship by the UIN or other markings, or by the certificate itself.

- In Botswana, the citizenship of the parent(s) and the child is stated on the birth certificate, denoted by an "F" for foreigner, a "C" for citizen, and "CD" for dual citizen.
- In Malawi, the parent's citizenship is indicated on the birth certificate. Only children born to a father or mother who is a citizen of Malawi are assigned a national ID number, which is printed on the birth certificate. For other children, this section of the birth certificate is left blank, thereby indicating non-citizenship status.
- In Eswatini, the parents' citizenship is shown on the birth certificate. Different numeric characters in UIN denote if the child is a citizen or non-citizen.
- In Lesotho, a child determined to be a foreigner is issued an abridged birth certificate, while a child determined to be a citizen is issued a full birth certificate. In addition, only citizens are assigned a UIN at birth registration and this UIN appears on the full certificate. The parents' citizenship is also written on the birth certificate.
- In Namibia, there are two distinct formats for birth certificates, one used for citizens and another for non-citizens. The parents' citizenship is not written on the birth certificate.
- In the Republic of Congo, the birth certificate states the citizenship status of the parents only.
- In South Africa, only citizens and permanent residents are issued with UIN's and electronic birth certificates. Children of foreigners who are not permanent residents are issued with paper notices of births, and the records are kept only in paper registers, thereby denoting non-citizenship status.

Table 2 summarizes the citizenship data in the birth registration record and on the birth certificate.

Table 2: Citizenship data in birth registration record and birth certificate

Country	Citizenship Data			
	Reflected in Birth Registration Record		Reflected in Birth Certificate	
	Parent	Child	Parent	Child
Botswana	✓	✓	✓	✓
Eswatini	✓	✓ (Embedded in UIN)	✓	✓ (Embedded in UIN)
Lesotho	✓	✓	✓	✓ (Indicated by full or abridged certificate)
Malawi	✓	✓	✓	✓ (Indicated by assignment of UIN)
Namibia	✓	✓	NA	✓ (Indicated by form of birth certificate)
Republic of Congo	✓	NA	✓	NA
South Africa	✓	✓ (Separate registers for citizens and non-citizens)	NA	✓ (Inferred from electronic vs. paper certificate)

Children born outside the country of their parent's citizenship: Registering a birth and claiming citizenship

Six of the seven countries—all but Namibia—have a process for parents to apply for birth registration for a child born abroad. This birth registration application process requires the parent to submit proof of their own citizenship, as well as a birth certificate from the country in which the birth occurred or a birth notification or other document from a hospital as proof of the event (based on what is available in terms of documentation for the birth of a foreigner). Upon review of the documentation, the civil registration authority will record the birth in the register and issue a birth certificate showing the original facts (of a birth abroad), which can be used as proof of citizenship.

In Namibia, birth certificates are not usually issued to children born to Namibian citizens abroad. Instead, the Namibian Citizenship Act lays out a process for children to claim citizenship by descent by registering the birth at a diplomatic mission abroad or with the civil registration authorities within one year after returning to the country. After registration, the child is issued a certificate of registration of citizenship. Only in cases where the parents were not issued with a birth certificate by the host country will a Namibian birth certificate be issued.

c. Legal Basis for Citizenship Determination at Birth Registration

As described above, six of the seven countries (all but the Republic of Congo) make a citizenship determination for the child at birth registration. In three of these six countries—Eswatini, Lesotho, Malawi—citizenship is addressed only in the citizenship laws, not in civil registration laws. As such, in these three countries, the citizenship determination process at birth registration is not set out in written procedures. As a result, this citizenship determination process is not standardized and determination for complex cases appear to be at the discretion of managers at the civil registration authorities, with no known mechanism for referral to higher officials or appeal. These three countries have expressed some initial interest in the development of standard operating procedures and citizenship referral mechanisms.

As described in more detail below, only three of the analyzed countries—Namibia, Botswana and South Africa—have civil registration laws that either explicitly or implicitly grant the civil registration authority the power to make a citizenship determination. Of these three, only two—Namibia and Botswana—have transparent procedures with a right to appeal a negative citizen decision.

Namibia

Different approaches to ensure clarity on citizenship have been tried and discussed over the years in Namibia. In December 2024, the Namibian government enacted a new Civil Registration and Identification Act (CRI Act), which is not yet in force at the time of this report. Section 16 of the CRI Act on “birth certificates as evidence of citizenship” provides for two types of birth certificates: one for citizens and one for non-citizens. This section requires the registrar to issue a citizen birth certificate “if the registrar is satisfied that a parent listed in the application for birth registration is a Namibian citizen or a permanent resident of Namibia.” If the registrar is not satisfied that citizenship requirements are met, the child is issued a birth certificate indicating that there is “insufficient information to make an immediate determination of the right to Namibian citizenship.” For every child who gets an “undetermined” birth certificate, there is an automatic review process by an inter-departmental committee at the Ministry of Home Affairs, Immigration, Safety and Security. If it is determined that the child is a Namibian citizen, the “undetermined” certificate is withdrawn, and the child is issued a citizen birth certificate. If it is determined that the child is not a citizen, the “undetermined” certificate is withdrawn, and the child is issued a non-citizen birth certificate. In cases where a child’s citizenship is not determined by the government within six months, the child will automatically become a citizen and issued a citizens birth certificate. The act has specific provisions about evidence so that each case is considered on its own merits, and allows for sworn statements by undocumented individuals in lieu of documentation. Section 16(11) of the act also provides that if there is ever a conflict between a citizenship decision made under the Civil Registration and Identification Act and one made under the Namibian Citizenship Act (sections 14, 15 or 16), the decision under the Namibian Citizenship Act always prevails. The registrar-general must then update the civil register accordingly and issue a new birth certificate reflecting that decision. This means that citizenship decisions made under the Namibian Citizenship Act override anything decided under the Civil Registration and Identification Act, and official records must be corrected accordingly. The Civil Registration and Identification Act (Section 77) also allows for administrative review of a citizenship determination and appeal to the High

Court. A final key legal safeguard to prevent statelessness is a provision by which Namibian citizenship is accorded for a child born on the territory who would be otherwise stateless (Section 16).

The new procedures specifically in Section 16 of the Civil Registration and Identification Act were a response to previous ad hoc procedures carried out by various administrative agencies that provided services to citizens and other permanent residents and therefore needed to apply and interpret citizenship provisions in the Constitution and the Namibian Citizenship Act. Section 4(1)(d) of the Constitution states that a child is a citizen by birth if one of the parents is a Namibian citizen or “ordinarily resident” in Namibia. The concept of “ordinarily resident” is neither defined in the constitution nor in the Namibian Citizenship Act. This has given rise to different interpretations by government agencies. Moreover, it has proved difficult for public and private entities to determine the citizenship of a child, as the data captured on the birth certificate was not sufficient to do so (reflecting only the country of birth of the parents and not citizenship). This led to the introduction of a Namibian and non-Namibian birth certificate in the mid-2000s.

In 2016, a Supreme Court ruling (*de Wilde vs. Minister of Home Affairs*³⁵) found that article 4(1)(d) must be given a generous and purposive interpretation that advances the interests of a child born in Namibia rather than an interpretation that limits such interests and that each case related to “ordinarily resident” must be considered on its own merits. As a result, since 2019, all cases of children born to parents who are “ordinarily resident” in the country have been evaluated by a committee consisting of staff members from the Department of Civil Registration and the Directorate for Citizenship and Passports. When the 2024 Civil Registration and Identification Act comes into effect, this citizenship determination will be made with the assistance of legal counsel within the ministry and may be appealed (Section 77 and 78 of the Civil Registration and Identification Act) to an administrative tribunal of experienced personnel and to the courts.

Botswana

In 2024, the government of Botswana adopted the Birth and Death Registration Act, 2024 and amendments to the Citizenship Act³⁶ to strengthen the processes and protections related to citizenship at birth registration.³⁷ The new act and amendments, which are not yet in force, align birth registration processes with the Botswana’s Children Act³⁸ 2009 (Section 12), which states that a birth certificate is proof of citizenship and that citizenship of the parents must be indicated on the birth certificate.³⁹ Thus, the civil registration authorities are implicitly empowered to make a citizenship determination. As part of these new processes, Botswana will allow undocumented parents to submit sworn statements in lieu of documentation, and will institute a clear appeal process, allowing people to submit an appeal to the minister responsible for civil registration if unsatisfied with the citizenship determination.

South Africa

There is no mention of citizenship in the South African Birth and Death Registration Act, 1992. The Regulations on the Registration of Births and Deaths, 2014,⁴⁰ set out different procedures for children of citizens, permanent residents, migrants and refugees.⁴¹ Regulation 6 implicitly authorizes the Director General of Home Affairs to make a citizenship determination, stating that where it appears that the child is non-South African citizen, the director general may apply

the procedures for non-South African citizens. the process by which the director general makes this determination is unclear and the law and regulations on civil registration do not provide for a clear appeal process of a citizenship determination.

d. Implications of Citizenship Determination at Birth Registration

To date, there has been no analysis to assess the implications of the practice of intertwining birth registration and citizenship determination. However, we know anecdotally that factors such as complex laws, documentation requirements, non-transparent procedures, and lack of appeals processes can hamper access to birth registration and can even create a risk of statelessness: First, legal provisions requiring parents to present documentation showing citizenship or residency status can result in children being denied registration or parents failing to register their children due to fear of reprisal, which can lead to a risk of statelessness. Second, civil registrars' lack of training on complex citizenship laws and statelessness safeguards can result in an improper denial of citizenship.

i. Requiring citizenship documentation of parents can create a barrier for birth registration

The practice of intertwining birth registration and citizenship determination raises concerns that some children are denied birth registration altogether, as it adds an extra layer of documentary requirements and scrutiny in order to verify the parent's citizenship. Children born outside their parents' country of citizenship can be at particular risk of statelessness, especially if the parents are undocumented. Undocumented persons often cannot access birth registration services in the country where the birth occurs and therefore may lack the proof required to register the birth in their country of citizenship when they return. For example, the South Africa Birth and Death Registration Regulations state that the parents must provide a valid copy of their passport and visa. Therefore, parents who are undocumented (or without valid immigration or residency status) cannot register the birth of their child, which has left many children undocumented.⁴² The regulations and separate processes for citizens and non-citizens have been continuously criticized by civil society in South Africa as leading to statelessness.⁴³ While the Citizenship Act provides for citizenship to be granted to any child born on the territory without entitlement to another citizenship, there are problems with the implementation of this provision. Specifically, the law only grants citizenship to such children if their birth has been registered, yet, as stated above, these births are difficult to register if the child's parents are undocumented. As a result, there are many children at risk of statelessness, including unaccompanied foreign minors, foundlings, and those whose parents are undocumented or without valid immigration status.⁴⁴

While all seven countries provide for registration of asylum-seekers and refugees, in some countries (e.g., South Africa and Lesotho), birth registration is only allowed if the parent(s) can show a valid refugee ID, leaving children unregistered until the parents' documentation has been issued. In some countries—such as Malawi and Botswana—laws permit the civil registration authorities to register children of undocumented parents through provision of alternative evidence, such as a sworn statement. In Namibia, under the new Civil Registration and Identification Act (Section 16(10)), alternative proofs of residency and identity will be accepted, and lack of documentation does not preclude birth registration. However, if parents

or civil registrars are unaware of these exceptions to the general rules on documentation, children may go unregistered, which in some instances can put children at risk of statelessness.

In some countries (e.g., South Africa), civil registration authorities are required by law to report “irregular”⁴⁵ migrants to the immigration authorities. As a result, such migrants may not register their children because they fear repercussions. To ensure the protection of children’s rights to birth registration and citizenship, and to achieve universal birth registration, the civil registration system should not be used as an enforcement tool for immigration laws.

For children born outside of their parents’ country of citizenship, a lack of birth registration can lead to a risk of statelessness. First, registration upon returning home may be complicated by a lack of documentation from the country in which the child was born. Second, if the parents do not apply for birth registration when they return to their home country, children born abroad may lack documentation to prove citizenship by descent and therefore be at risk of statelessness. This again reinforces the importance of universal birth registration and ensuring all children can be registered in the country where they are born.

ii. Lack of knowledge among civil registrars can result in flawed citizenship determinations

Citizenship laws can be complex, particularly in countries that follow some form of the principle of *jus sanguinis*, as do six of the seven countries analyzed (see also Table 3). In addition, legal provisions on citizenship and statelessness may be amended and updated. A determination of citizenship requires government officials to have in-depth and up-to-date knowledge of their own country’s citizenship laws, as well as the citizenship laws of other countries. It also requires knowledge about whether the country has adopted legal safeguards to prevent statelessness by domesticating, for example, provisions regarding granting of nationality if a child might otherwise be stateless, in line with the 1961 Statelessness Convention. These determinations require officials to verify the authenticity of documents and completeness of information provided during the application process, assess the evidence against legal standards, and make determinations that affect the lives of children. Yet, despite the complexities, representatives from five of the six countries where interviews were conducted affirmed that civil registrars receive little or no specific training on citizenship determination. Namibia stands out, as the country has been making these decisions by committee—with trained members—since 2019. The lack of training can lead to a risk of statelessness, as civil registrars may also not implement the safeguards that countries have put in place.

Automation of citizenship determinations should not be a substitute for training. In Lesotho and Malawi, it has been observed that the citizenship of the child is determined by automated processing based on the parents’ citizenship, and there is no input by the civil registrars. This approach may bear considerable risks and lead to errors in the citizenship determination, particularly in complex cases, and where there are ambiguities in the law. Further, absent formal processes in law (as discussed above), there is no way to challenge these automated decisions.

Table 3: Citizenship principles and legal provisions

Country and Citizenship Principle	Legal Provisions Governing Citizenship	Protections Against Statelessness
Botswana Jus sanguinis	Citizenship Act, ⁴⁶ Article 4(1) and 5(1): a child born in or outside of Botswana is a citizen if, at the time of birth, the father or mother was a citizen of Botswana.	Party to the 1954 Convention relating to the Status of Stateless Persons (not a Party to the 1961 Convention). Citizenship Act (as amended 2024), ⁴⁷ Section 6(4): stateless persons may register as a citizen following a period of residence in the country. Birth and Death Registration Act (as amended in 2024) ⁴⁸ : provides for the registration as Botswana citizens of abandoned children under the age of 7 years. Children Act, 2009, ⁴⁹ Section 12: guarantees every child a right to citizenship from birth.
Republic of Congo Jus sanguinis	Code de la Nationalité 1961 (amended 1993, 2011) ⁵⁰ , Article 8: a child born in the Congo is a citizen if one parent is a citizen and the other was born in Congo, or if both parents were born in Congo. Article 7: A child born outside Congo is a citizen if both parents are Congo citizens.	Party to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. Code de la Nationalité, Art. 9: a child born in Congo to unknown parents is a citizen.
Eswatini Jus sanguinis	Constitution of Eswatini 2005, ⁵¹ Art. 43 and Citizenship Act, ⁵² Sec. 7: A child born in or outside Eswatini is a citizen if the father is a citizen. A child born in Eswatini outside marriage, and not claimed by the father, is a citizen if the mother is a citizen.	Party to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. Constitution of Eswatini, Art. 47: an abandoned child (up to the age of 7) is presumed to be born in Eswatini and to be a citizen, unless proven otherwise.
Lesotho Jus soli (in application Jus sanguinis)	Constitution of Lesotho 1993 (amended 2018) ⁵³ : Art. 38: A child born in Lesotho is a citizen of Lesotho. Art. 39: A child born outside Lesotho is a citizen if, at that date, either of his parents is a citizen of Lesotho otherwise than by descent. Citizenship Order, 1971, ⁵⁴ Art. 5: applies the Jus soli principle. However, a 1989 amendment ⁵⁵ makes citizenship of a child born in Lesotho conditional on one parent being a citizen (unless he would thereby become stateless).	Party to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. Citizenship Order 1971, Art 2(6): a child found in Lesotho is deemed to have been born in Lesotho to parents possessing citizenship.
Malawi Jus sanguinis	Citizenship Act (amended 2022), ⁵⁶ Sec. 4, 5: a child born in Malawi is a citizen of Malawi if one parent is a citizen. A child born outside Malawi is a citizen if one parent is a citizen by birth.	Party to the 1954 Convention Relating to the Status of Stateless Persons (not a Party to the 1961 Convention) Citizenship Act, Sec. 2(5), an infant found abandoned within Malawi is deemed to have been born within Malawi of parents possessing citizenship of Malawi.
Namibia Mixed Jus soli and Jus sanguinis	Namibia Constitution 1990 (amended 1998, 2010, 2014), ⁵⁷ Art. 4: a child born in Namibia is a citizen if at least one parent is a citizen, or "ordinarily resident" in Namibia, at the time of the child's birth. A child born outside Namibia is a citizen if one parent was a citizen at the time of birth, and the birth is registered (see Citizenship Act ⁵⁸ , Sec. 2)	Civil Registration and Identification Act, 2024 (not yet in force), ⁵⁹ Sec. 18(3): if a child would otherwise be stateless, the child should be registered as a citizen.
South Africa Jus sanguinis	Citizenship Act, 1995 (amended 1997, 2002, 2004, 2010), ⁶⁰ Sec. 2, 3: A child born in or outside South Africa to a citizen of South Africa is a citizen.	Citizenship Act, ⁶¹ Sec 2(2): A child born in South Africa who would otherwise be stateless is a citizen if their birth is registered under the Births and Deaths Registration Act.

e. Rationale for Intertwining Birth Registration and Citizenship Determination

A key goal of this research is to understand the rationale for the arrangement of intertwining birth registration and citizenship determination. Although documentation on when and why this practice started may be lacking, interesting insights were obtained from the interviewees, which can help improve the understanding of these practices.

In some of the countries, it appears that this practice began with the digitalization and integration of the civil registration and ID systems. Historically, in the region, citizenship status has been recorded in national ID systems in order to facilitate citizens' access to rights and services, such as voting and social services only accessible to citizens and permanent residents. For example, in Botswana and Malawi, the law governing ID systems states there must be two ID registers, one for citizens and one for non-citizens.^{62, 63} In South Africa and Namibia, only citizens and permanent residents are issued an ID card and entered into the ID system.

Before the integration of the civil registration and ID systems and before the issuance of a unique identity number (UIN) at birth, a birth would be registered and, in a separate process, an individual would present themselves to the ID authorities to get a national ID card when they reached a certain age, usually mid-teens. The person would present a copy of their birth certificate or other documentation (or when documentation was lacking, a witness), to enable the ID authorities to verify their identity, determine their citizenship, and enter them in the ID system as applicable. With integrated digital civil registration and ID systems, birth data is now transmitted at the time of birth registration electronically to the ID system and/or population register, at which time a UIN is generated and the newly generated identity number is linked to the birth registration record. Thus, citizenship determination at the time of birth registration seems unavoidable, particularly if the ID system has separate registers for citizens and non-citizens, or generates different UINs for citizens and non-citizens.

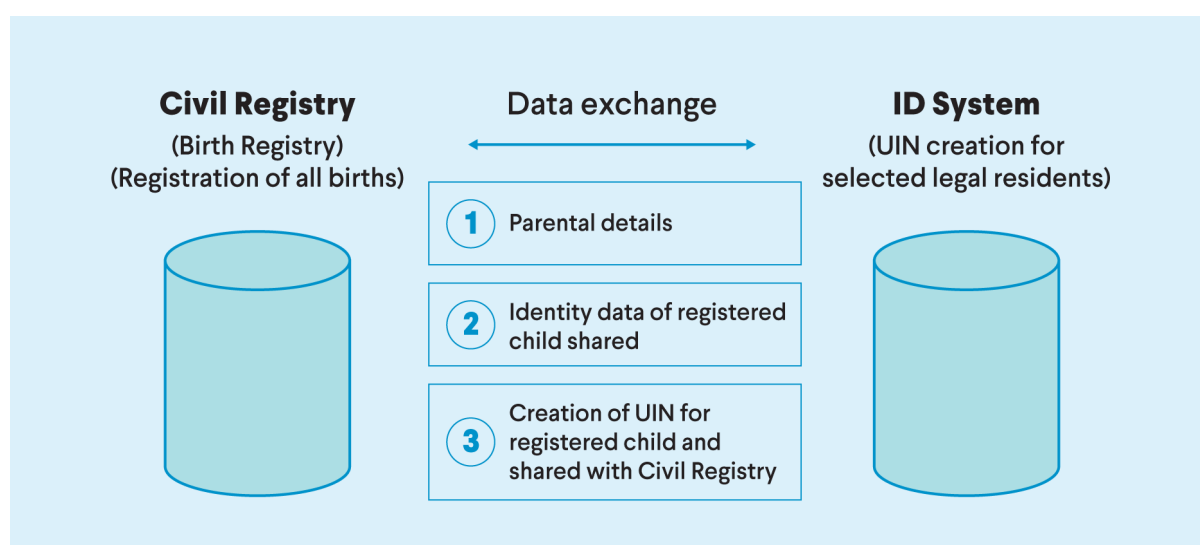


Figure 1: Example of data exchange (push and pull) model between civil registry and national identity systems at the time of electronic birth registration and creation of an UIN.

Step 1: Verification and pre-population of parental details from the ID system during the course of birth registration. Step 2: Sharing of identity details of the child from civil registry to ID system. Step 3: UIN is created in ID system and shared back to civil registry.



Mbabane, Eswatini. Photo Credit: Sopotnicki / Shutterstock.com

Lesotho, Eswatini, Malawi, Botswana and South Africa all have interoperable civil registration and ID systems, some of which are based on data sets from previous ID databases. All these integrated systems have the ability to issue unique identity numbers from birth, created by the ID system, as per the guidance issued by the UN Legal Identity Agenda Taskforce.⁶⁴ In some of these systems, the UIN character sequence is generated in the same manner for citizens and non-citizens, in line with international recommendations. In other systems, as in Eswatini, the character sequence of the UIN indicates whether the person is a citizen or a non-citizen. In others—such as Malawi—a UIN is issued only to citizens. In many countries, the ID card indicates if the holder is a citizen or non-citizen (see Figure 2). Thus, issuance of a UIN and entry in the ID system requires a citizenship determination.

In Namibia there have been ongoing discussions internally in the Ministry of Home Affairs and Immigration over the past 20 years on the intersection between birth registration and citizenship determination. According to the interview with Namibian officials, the practice of issuing Namibian and non-Namibian certificates was a practical solution, aimed to address constitutional questions, and inconsistent practices regarding citizenship determinations by birth by other public and private agencies at the time of application for service provision. Establishing clear legal processes for citizenship determination and safeguards for prevention of statelessness in the Civil Registration and Identification Act, 2024 rectified ambiguous practices, helping potentially thousands of children. As discussed above, the new safeguards include legal processes to defer citizenship for abandoned children and stateless children or children that otherwise would be stateless, and the right to appeal.

In Botswana, the practice of intertwining the determination of citizenship and birth registration processes is considered to facilitate the right of every child to a citizenship and helps avoid situations where children are left stateless. It is, furthermore, seen to provide a process for fulfilling the country's international obligations with respect to the child's right to citizenship at birth. This is also seen to provide administrative efficiency by streamlining the process and recording all relevant information at once, ensuring clear legal identity for all children born in Botswana.



Lilongwe, Malawi. Photo Credit: hecke61 / Shutterstock.com

In South Africa, the practice of separating the birth registration records of citizens and permanent residents from those of foreigners in different registers started with the integration of the civil registration system with the ID system, which also only hosts data of citizens and permanent residents.⁶⁵ While this integration of civil registration with the ID system in South Africa may necessitated separate registers, this should not require denying children of “irregular migrants” access to civil registration services.



Figure 2: ID cards from Namibia, South Africa and Malawi.

A. Namibian citizen, Non-citizen, and Refugee ID card⁶⁶; B South African ID card with the “Status” data element indicating citizen⁶⁷; C: Malawi ID card showing nationality.⁶⁸



Johannesburg, South Africa. Photo Credit: I_am_Duan / Shutterstock.com

5. Conclusion

This analysis highlights that citizenship issues are closely linked to birth registration and, as civil registration and identity systems become more integrated, citizenship determination has become increasingly interwoven with birth registration. Notably, the integration of birth registration with identity systems, which is recommended by the UN, triggers citizenship determination if these systems contain a citizenship data field. The analysis further shows that in practice, civil registry authorities in six out of the seven countries analyzed have set up processes to make citizenship determination at the point of birth registration, even if there are no clear legal mandate or no formal procedures established to execute this function.

Citizenship determination at the time of birth registration can be protective of a child's right to acquire nationality, as set forth in Article 7 of the Convention on the Rights of the Child. Civil registration systems and civil registrars may be well positioned to support this fundamental right, as birth registration establishes core facts – place of birth and parentage – that are essential for determining nationality. However, determining citizenship is a multifaceted and complex process and must be carried out properly. Where there is a lack of legislation and standard operational procedures, civil registrars make ad hoc decisions, which can result in inconsistent administrative practices. Such inconsistencies increase the risk of errors, discretionary decision-making and in some contexts, discriminatory outcomes, particularly where the citizenship determination process lacks due process, including transparency, formal oversight, and clear review and appeal mechanisms. Errors in citizenship determination, such as incorrect recording of a parent's citizenship, can have long-term consequences, including an impact on a child's citizenship or stateless status. The lack of standardized procedures is also compounded by the observation that in the seven countries analyzed there is no standardized training in citizenship law and determination for the civil registrars who have ended up carrying out these functions.

The analysis underscores the need for further discussion on the intertwining of birth registration and citizenship determination. It also highlights the need for clear international guidance that addresses the link between birth registration, citizenship and ID systems. Given the impact a citizenship determination has on a person's life, greater legal clarity is needed regarding when citizenship determination should take place, by whom and what procedures and safeguards should be in place. Besides clear legal designation of the authority responsible for making citizenship determination, procedures need to incorporate due process considerations, in other words, minimum standards for fairness and procedural justice. This includes informing the parents about decisions, and a clear mechanism for administrative and/or judicial review and providing the rationale for a negative determination if challenged.

Finally, laws must also provide safeguards to prevent and reduce statelessness, accompanied by clear regulations and procedures to guide practical implementation. Laws must also guarantee universal birth registration in the country where the birth took place, regardless of parent and child status, so that this intertwining of birth registration and citizenship determination does not result in children being denied birth registration.⁶⁹

The practice of intertwining described in this report raises concerns that some children will be denied birth registration, as the process of determining citizenship will add an extra layer of documentary requirements and scrutiny. However, the fact that the civil registry and ID systems are considered the backbone of digital public infrastructure makes it unlikely that the birth registration scrutiny will be less in future, and that governments would return to a time when it was a simple recording of the basic details of the child and parents. The digitalization and integration of civil registry into identity systems, has fundamentally altered the civil registration processes. It is therefore essential that civil registration and ID systems are driven by the dual ambition to have all children registered at birth and to prevent statelessness.

The issues raised in this analysis are not necessarily new or unique to the countries analyzed. Similar observations have been made by other actors, including those working to implement the UN Legal Identity Agenda. In light of these concerns, this analysis suggests the following topics that would benefit from further consideration and guidance:

- Should citizenship be determined at birth registration, if the civil registry is interoperable with the ID system?
- If so, should there be a specific authority for citizenship determination at birth registration?
- What are the considerations for the legal framework to implement citizenship determination at birth registration?
- What mechanism should be put in place to ensure due process—including lawful and predictable referrals mechanism, transparency, accountability and redress—for a citizenship determination at birth registration?
- What are the minimal safeguards that should be made available and should be implemented to prevent and reduce statelessness and ensure citizenship for each child, if citizenship is determined at birth registration?
- What data should be collected at birth registration to facilitate a determination on citizenship, if one is to be made?
- What training protocols are appropriate for the entity making a citizenship determination at birth registration?

Annex 1: Questionnaire for Country Interviews

Desk Review	Response
1. Completeness rate for birth registration and ID registration for those under one.	Birth registration: ID registration:
2. Completeness rate for birth registration and ID registration for the entire population.	Birth registration: ID registration:
3. Status of the civil registration system: New laws, digitalization, interoperable with the ID systems, etc.	
4. Ongoing initiatives to improve birth registration.	
5. Key challenges on birth registration.	
Interview	Response
6. What measures are in place to address common barriers to birth registration (e.g., language, literacy, distance, costs, proof of paternity)?	
7. Please list any specific initiatives to ensure inclusivity.	
8. Which act(s) determine citizenship by birth (constitution, civil registration acts, social protection acts, and ID registration acts)?	
9. Is the country signatory to the Statelessness Conventions?	
10. In law, are there referral mechanisms to other agencies, departments or ministries in cases where citizenship cannot be determined?	
11. Are there clear procedures in law for challenging a determination of citizenship in this context?	
12. Do the act/regulations lay out the procedures and documentary requirements? Any references regarding citizenship determination?	
13. Who does the act delegate the power to in terms of citizenship determination?	
14. Which data is collected during civil registration? Do they collect data on citizenship of child or/and parents (registry and form)?	
15. What information is shown on the birth certificate?	
16. Is the UIN linked to citizenship status?	
17. What are the provisions for registration of persons in vulnerable situations (abandoned children, orphaned children, ethnic minorities, refugees, stateless people)?	
<p>18. Citizenship by birth/descent</p> <p>How is citizenship by birth determined for births in the country? Is it part of the birth registration process/part of the ID registration process/separate process?</p> <p>How is citizenship of children born outside of the country determined? Is it part of the birth registration process/part of the ID registration process/separate process?</p>	

Interview	Response
<p>19. Interoperable systems</p> <p>Is the civil registry interoperable with the ID system? Are data shared between the two systems? How?</p> <p>Is a UIN/ID issued at birth registration? Does the UIN indicate citizenship?</p>	
<p>20. Special initiatives</p> <p>Are there any specific initiatives to ensure inclusivity to ensure that everyone is registered and secured citizenship?</p>	
<p>21. Birth registration practices</p> <p>Timely registration of birth:</p> <p>Please map out your country's timely birth registration procedure (notification, registration, and certification).</p> <p>Is the citizenship of the parents captured on the birth registration form and birth certificate?</p> <p>What are the documentary requirements for nationals?</p> <p>What are the documentary requirements for non-nationals? And refugees?</p> <p>What happens if the parents are undocumented?</p> <p>What happens if the child is abandoned?</p> <p>Is the child's citizenship requested on the birth registration form? Does the registrar make a citizenship determination or defer citizenship claimed by the parents?</p> <p>How is citizenship captured if the parents are not citizens of the host country? What happens if the parents are of dual citizenship or do not have the same citizenship?</p> <p>Is the citizenship of the child indicated on the birth certificate? Describe how.</p> <p>What is the process for registering abandoned children in the care of the state/private actors? (Is there an age cap?)</p> <p>If the registrar is uncertain of the child's citizenship, what happens? Please state what the law requires that the registrar put on the birth registration record and the birth certificate (e.g., leave it blank, not issue it, etc.).</p> <p>In which situations do you typically reject the registration of a child?</p>	
<p>Late registration of birth:</p> <p>Please map out your country's late birth registration procedure.</p> <p>What are the documentary requirements for nationals?</p> <p>What are the documentary requirements for non-nationals?</p> <p>What happens if the parents are undocumented?</p> <p>What happens if the child is abandoned?</p> <p>Is the citizenship of the child and the parents captured on the birth registration form?</p> <p>Is the citizenship of the child and parents captured in the birth registry? How?</p> <p>Is the citizenship of the child indicated on the birth certificate? Describe.</p> <p>Is the citizenship(s) of the parent(s) reflected on the birth certificate?</p> <p>What is the process for registering abandoned children in the care of the state/private actors? (Is there an age cap?)</p> <p>What is the process for registering children living on the streets or without the supervision of parents or guardians?</p> <p>If the registrar is uncertain of the child's citizenship, what happens? Please state what the law requires that the registrar put on the birth registration record and birth certificate (e.g., leave it blank, not issue it, etc.).</p> <p>Are there any referral mechanisms in place?</p> <p>In which situations do you typically reject the registration of a child?</p>	
<p>Citizenship determination process</p> <p>What are the key reasons the country determines citizenship as part of the birth registration process?</p> <p>Are there any internal policies and standard operating procedures in place to provide guidance on determining citizenship? If yes, which groups does this cover?</p> <p>Do you provide civil registrars with training on citizenship determination?</p> <p>Are there clear procedures in law for challenging a determination of citizenship?</p> <p>What have been your key challenges with citizenship determination?</p>	

Endnotes

- 1 UN Legal Identity Agenda, at: <https://unstats.un.org/legal-identity-agenda/>
- 2 The term “intertwining” is used here to illustrate how birth registration and citizenship determination have been interconnected without there necessarily being any due process or there having been a deliberate process that lead to the interconnecting of the two processes.
- 3 “Citizenship” and “nationality” are legally distinct concepts. Nationality is one’s legal belonging to a sovereign state, often tied to place of birth and/or the nationality of one’s parents, while citizenship is the legal status of having full rights and duties within that state, such as voting and holding office. However, these terms are used interchangeably in common parlance. Therefore, in this document, we use the term “citizenship”, which is the more commonly used term.
- 4 International Covenant on Civil and Political Rights, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>
- 5 Convention on the right of the child, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>
- 6 <https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-relating-specific-aspects-right>
- 7 UNHCR Handbook on the Protection of Stateless Persons, Geneva, 2014, paragraph 55.
- 8 https://legal.un.org/ilc/texts/instruments/english/conventions/6_1_1961.pdf
- 9 The terms citizenship and nationality are used interchangeably in this report.
- 10 The “competent authority” is the entity empowered by law to undertake specified functions and responsibilities. In this case, the competent authority for birth registration is the entity designated in the civil registration law with that power and function. The competent authority for nationality is the authority responsible, by law, for conferring or withdrawing nationality from individuals, or for clarifying nationality status where nationality is acquired or withdrawn automatically.
- 11 UNHCR Handbook on the Protection of Stateless Persons, paragraphs 24-25.
- 12 UNHCR Litigating the Right to a Nationality: A Guide for Practitioners November 2024 <https://www.refworld.org/policy/polcomp/unhcr/2024/en/149069>
- 13 The Global Health Advocacy Incubator Guidance on Civil Registration, Citizenship Determination and Statelessness, November 2023 https://assets.advocacyincubator.org/uploads/team/2023/Briefing_CR_Citizenship_Statelessness.pdf
- 14 UNHCR Litigating the Right to a Nationality: A Guide for Practitioners November 2024 <https://www.refworld.org/policy/polcomp/unhcr/2024/en/149069>
- 15 <https://unstats.un.org/unsd/demographic/stand-meth/principles/m19rev3en.pdf>
- 16 See Implementation of the United Nations Legal identity Agenda, United Nations Country Team Operational Guidelines (May 2020), paragraphs 22, 62.
- 17 United Nations, Guidelines on the Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, (hereinafter UN GOLF), at paragraph 63.
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