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# LEGAL IDENTITY IN FORCED DISPLACEMENT CONTEXTS

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## Considerations and Recommendations for the World Bank Group and Other Investors

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### Executive Summary

Legal identity is essential to enjoying rights and enabling access to basic services and opportunities, like access to justice, physical integrity, freedom of movement and access to education, health, or livelihoods. The lack of legal identity is often a cause and effect of displacement and statelessness. Refugees, internally displaced people (IDPs), and asylum seekers face particular barriers to accessing registration and identification processes that make legal identity a tangible entitlement. These barriers may be structural and affect these groups disproportionately because of their specific vulnerabilities or may be linked to states' policies and practices intended to exclude displaced persons. In forced displacement contexts, lacking a legal identity has immediate and wide-ranging negative effects on affected populations since access to humanitarian assistance and livelihood options to rebuild their lives is often dependent on these documents to prove identity.

While the concept of legal identity is not clearly defined in international law, it is a more frequently used term in the humanitarian and development sectors. Some refer to it as the right to have rights or the recognition of a person's existence before the law. Others see it as a process that starts with birth registration and

continues through interaction with state institutions in registering vital events, obtaining identification documents and passports, etc. Despite the lack of an agreed definition, legal identity and other associated terms like identity, civil documents, and civil registration, they are frequently referred to in humanitarian and development policy and commitments, including in the 2030 Agenda SDG goal to provide legal identity for all.<sup>9</sup>

The WBG should prioritize access to legal identity as a desired goal in all countries hosting significant numbers of displaced people to support inclusive development outcomes. Specifically, the WBG should:

- ▶ Ensure the needs of refugees, asylum-seekers and other displaced persons are included in projects strengthening national identification or civil registration systems.
- ▶ Promote inclusive policies and practices so forcibly displaced populations that face barriers to obtaining legal identity documents do not end up deprived of access to basic rights, services, and livelihood opportunities.
- ▶ Develop a global analysis framework to identify forced displacement related barriers to accessing legal identity.
- ▶ Create a global knowledge hub to ensure good practice is shared and systematized.
- ▶ Create a multi-disciplinary community of practice involving relevant stakeholders at global, regional, and country level.

## THE ISSUE:

### Barriers to access legal identity

#### Gaps in Reliable Data

Reliable statistics are needed to understand how many displaced persons lack access to a legal identity and to design effective interventions that support legal identity for all. There is a dearth of reliable statistics on how many displaced persons lack access to a legal identity. According to data from the WBG, **1 billion** people lack official proof of identity out of which 494 million live in sub-Saharan Africa, and 63 million in the Middle East and North Africa (MENA) region. Of the **80 million** displaced worldwide by mid-2020, **27 million were living in sub-Saharan Africa and almost 19 million in the MENA region**. These numbers indicate a correlation between regions with large numbers of displaced persons matching those with the lowest numbers of people having a legal identity. Given the patterns of exclusion and obstacles that displaced persons face, it is possible they are among the group of people without legal identity in these regions.

Despite the lack of statistics, states, humanitarian agencies and development institutions like the WBG have acknowledged through policies and **initiatives** the importance of providing **refugees** and **IDPs** access

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<sup>9</sup> SDG 16.9 or the New York Declaration (para. 70-71).

to a legal identity. However, there is a gap between policy and practice which can be filled with high-quality data to inform effective and efficient policies and programming that promote access to legal identity.

## Barriers Specific to Displacement

The **Norwegian Refugee Council's** (NRC) research from 14 countries including refugee and IDP settings show a pattern of exclusion through a diverse mix of legal, bureaucratic, and practical obstacles. These include unaffordable costs, lack of information about procedures, and discrimination based in law or social practices. Displaced persons are frequently asked to produce identity documents to obtain other documents or to register their children. Often, they cannot produce such documents because they lost them—or they never had them—and they end up in a vicious circle of being undocumented and lacking registration. These barriers are not unique to displacement contexts, but the specific vulnerabilities of displaced persons make them even more consequential.

There are, however, two barriers specific to displacement contexts. First, documents can often only be obtained in the place of origin and displaced persons cannot make the journey because of security concerns, lack of resources or fear of jeopardizing their legal stay in a host country. Second, the destruction of identity and civil registration offices and records as a result of conflict or disaster means that foundational documents are missing.

The consequences of not having access to a legal identity prevents access to rights and to basic services like education, health, employment, or social protection programs, which are fundamental to inclusive development. For example, refugee children are often **excluded** from accessing education because of missing identity-related documentation required for school enrollment or examination eligibility. In crisis situations, not being able to provide a document may result in being denied humanitarian assistance. Displaced persons who cannot produce the required documents may end up excluded from reconstruction efforts and from institutional support aiming at finding solutions to displacement. New and existing efforts, including from the WBG, should be amplified to ensure displaced persons have access to a legal identity, but this should not become a pre-condition to access rights and services. The right to education, health, or social protection – let alone access to humanitarian assistance – should not be dependent on producing documents.

## Legal Identity in IDA18 Regional Sub-Window (RSW) Projects

Some IDA18 RSW projects acknowledge the interdependency between legal identity and access to rights and services in forced displacement contexts. In **Cameroon**, identification and civil registration is integrated with health and nutrition assistance, which is an effective way of ensuring inclusion in national systems and will facilitate solutions to displacement at a later stage. In **Ethiopia**, the WBG promotes the implementation of the Refugee Proclamation of the Government by connecting employment and livelihood opportunities with access to documentation. These are isolated yet valuable experiences that should be documented and further integrated in other IDA19 projects and in larger WBG initiatives focusing on legal identity, e.g., Identification for Development (ID4D).

## CONSIDERATIONS:

### Displacement-tailored analysis to ensure inclusive identification and civil registration systems

#### Leave No One Behind: Legal Identity for Displaced People

Trusted and inclusive identification and civil registration systems are part of WBG strategies to fight poverty and promote empowerment and positive change in several areas like gender equality or health. For the WBG, these systems are increasingly critical for realizing the SDGs and respecting the principle of *leave no one behind*. To that effect, the Bank **has mobilized significant investment** (i.e., \$1 billion) on civil registration and ID-related projects in recent years.

Achieving the SDG goals of “*leave no one behind*” and “*legal identity for all*” (SDG 16.9) will require that the specific barriers faced by displaced persons are included in the global and country analysis that the WBG and other institutions undertake to understand gaps in ID and registration coverage. For example, the recent report of the ID4D Initiative “**Global ID Coverage, Barriers and Use by the Numbers: Insights from the ID4D Findex Survey**” presents comprehensive data about the Global ID gap analyzed from a socio-economic perspective. Costs, demand and supply, literacy, etc. are indeed barriers commonly affecting displaced persons. The goal of the ID4D is for all people to be able to access services and exercise their rights, enabled by digital identification. Yet, few of the survey questions seemed to be tailored to address the specific barriers faced by displaced populations and therefore they do not appear in the findings. Unless the displacement perspective is factored in, digital solutions may not work for all. This contrasts with other key tools developed by ID4D, like the Practitioners Guide, which calls for attention to barriers faced by displaced persons when designing inclusive identification systems. These barriers are often sensitive and context specific and civil society organizations working with displaced populations can provide valuable input to address them.

#### Towards a Holistic Analysis of Legal Identity for the Displaced

A “forced displacement” inclusive analysis involves looking into discriminatory policies or legislation. The Refugee Policy Review Framework (RPRF) is addressing this in its section on refugee access to civil registration and identification. Yet, obtaining a holistic understanding of the barriers faced by displaced persons also requires analyzing the social and practical barriers. The RPRF should dig deeper into procedural requirements forcing displaced persons to return to the place of origin and whether it is impossible to obtain documents because registries are destroyed. NRC’s **research** shows that these issues are recurrent in forced displacement contexts, but country-level analysis requires context-specific considerations. For example, social norms discriminating against women may vary from context to context, thus requiring a different approach to overcome gender discrimination. Therefore, systematically undertaking a holistic analysis when supporting ID and civil registration solutions in refugee-producing and receiving countries is crucial to understanding barriers and finding solutions to legal identity.

Lastly, the RPRF focuses on policies related to refugees only, while the WBG – including IDA18 – is implementing projects addressing legal identity issues in internal displacement contexts (e.g., Cameroon).

A unique and coherent framework for researching and considering specific barriers in all displacement contexts is required to design effective interventions and strengthen government identification systems.<sup>10</sup>

## Inclusive ID and Civil Registration Systems

The [Principles on Identification for Sustainable Development: Toward the Digital Age](#), convened and endorsed by the WBG, call for inclusive systems (universal and non-discriminatory) and for the reduction of costs and IT disparities. Any system—digital or not—should aim at fulfilling these principles. If displaced persons are not to be left behind, the specific barriers they face need to be analyzed and addressed. The WBG should build alliances with national and international civil society to both undertake research and design projects that truly respond to displaced people’s needs to enhance a full respect and implementation of the Principles.

There is broad agreement that trusted and inclusive ID and civil registration systems are key to achieving the SDGs and leaving no one behind, as well as the WBG’s twin goals of ending extreme poverty and promoting shared prosperity. While having a legal identity is a right in and of itself, it is also a gateway for people to fully participate in their society and economy. In Iraq, while identity documentation is not officially required by national laws, in practice medical officials often require it to conduct serious procedures ([NRC 2019](#)). In Myanmar, a birth certificate is required for primary school enrollment” ([NRC 2018](#)).

Freedom of movement and access to education, health, and humanitarian assistance should not be conditional on having identity or civil documents. The WBG and other actors supporting ID and registration systems should also promote inclusive policies and practices so populations that cannot access documents do not end up deprived of access to basic rights and services. This can be achieved using interim identification methods, “time limited amnesties,” to produce documents needed to access services, and other flexible and creative means.

## RECOMMENDATIONS:

### Address barriers to legal identity

To advance its mission of ending poverty and not leaving anyone behind, the WBG should:

#### Evidence Generation and Analysis for Access to Rights and Services

- ▶ **Ensure the needs of refugees, asylum-seekers and other displaced persons are included in projects strengthening identification or civil registration.** Every project should be based on contextualized analysis of forced displacement-related barriers and should include actions to address them in host government plans. Moreover, projects addressing socio-economic needs of displaced persons should include a legal identity component.

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10 See [here](#), which discusses how the Cédula Úniversa de Identidad Digital will be issued to “vulnerable populations” but does not mention refugees or other non-nationals; see [here](#), which implies the Cédula Úniversa de Identidad Digital will simply be a new, enhanced version of identity documents issued under the existing Clave Única de Registro de Población (CURP) system, which is currently available to refugees.

- ▶ **Develop a global analysis framework to identify forced displacement related barriers to access legal identity.** The framework should integrate specificities on internal displacement and refugee contexts. WBG initiatives, such as the ID4D and the RPRF, should be coordinated closely to ensure a coherent research framework across different contexts that will help identify global patterns of exclusion. International and national NGOs and civil society should be meaningfully engaged in the development of the framework to ensure positive outcomes.
- ▶ **Invest in reliable global statistics about displaced persons lacking a legal identity** to understand the scope and magnitude of the problem and to design effective interventions WBG is best placed to leverage its strong analytical capabilities to fill this much needed information gap. This could be integrated into the ID4D survey initiative or as an area of study for the WBG-UNHCR Joint Data Center on Forced Displacement.

## Project Implementation

- ▶ **Ensure all WBG projects respect the Principles on Identification for Sustainable Development** and other relevant standards in forced displacement settings. These Principles are critical for promoting universal access to legal identity, as well as advancing economic and social development and ensuring no one is left behind.
- ▶ **Do not require beneficiaries to produce documentation as a prerequisite to access rights and services** such as education, health, employment, and humanitarian assistance. The WBG should promote inclusive policies and practices when engaging with governments so forcibly displaced populations that face barriers to obtaining legal identity documents do not end up deprived of access to basic rights, services, and livelihood opportunities.

## Stakeholder Engagement and Knowledge Sharing

- ▶ **Ensure the participation of displaced persons in the design and implementation of projects strengthening states' identification or civil registration systems.** Consulting displaced persons is essential to addressing their identification-related needs and for designing efficient, effective, and accountable interventions.
- ▶ **Create a multi-disciplinary community of practice involving relevant stakeholders at global, regional, and country level.** Currently no legal identity forum exists for actors to share knowledge and experience, coordinate efforts, or strategize collectively. As the largest funder for legal identity efforts globally, the WBG should consider establishing a community of practice that includes a range of partners from the humanitarian, development, human rights, academic, and other disciplines. Establishing a forum that draws from the full range of partners and resources could unlock creative outcome-oriented strategies to advance legal identity solutions for the forcibly displaced.

The community of practice could house a global knowledge hub to ensure good practice is systematized and to spur a cycle of learning so that positive experience is brought to scale. Lessons learned from IDA18 projects and other WBG initiatives addressing legal identity issues in displacement contexts should be systematized and made publicly available. Relevant actors like

U.N. agencies, international and national NGOs and civil society should be invited to contribute with research and analysis to build a comprehensive picture on good practice.