



Practical realities of national identification systems in Africa: When is an undocumented person stateless?

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The Use of Technology in Identity Verification

EMN Norway's National Conference, Oslo

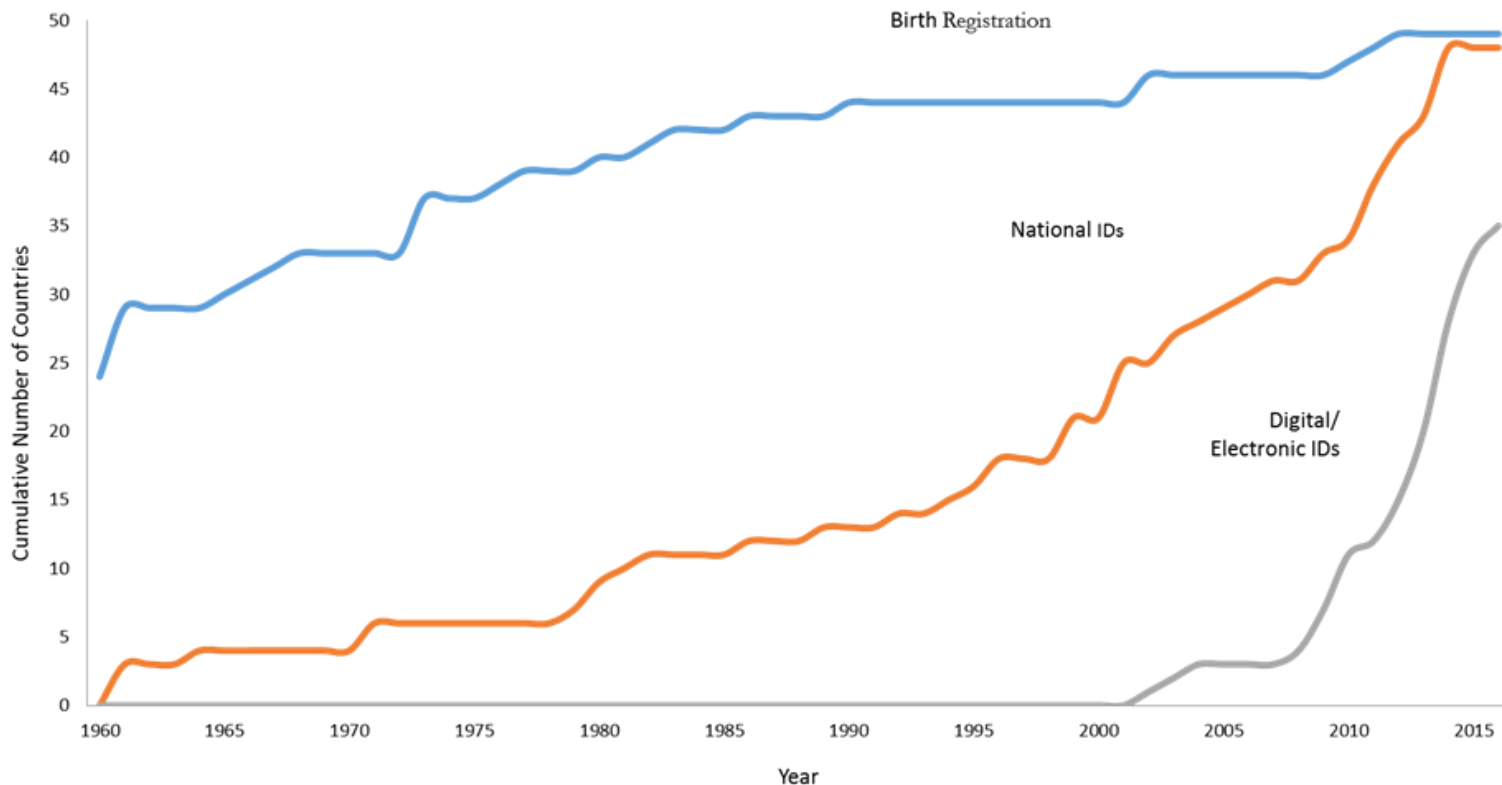
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Outline



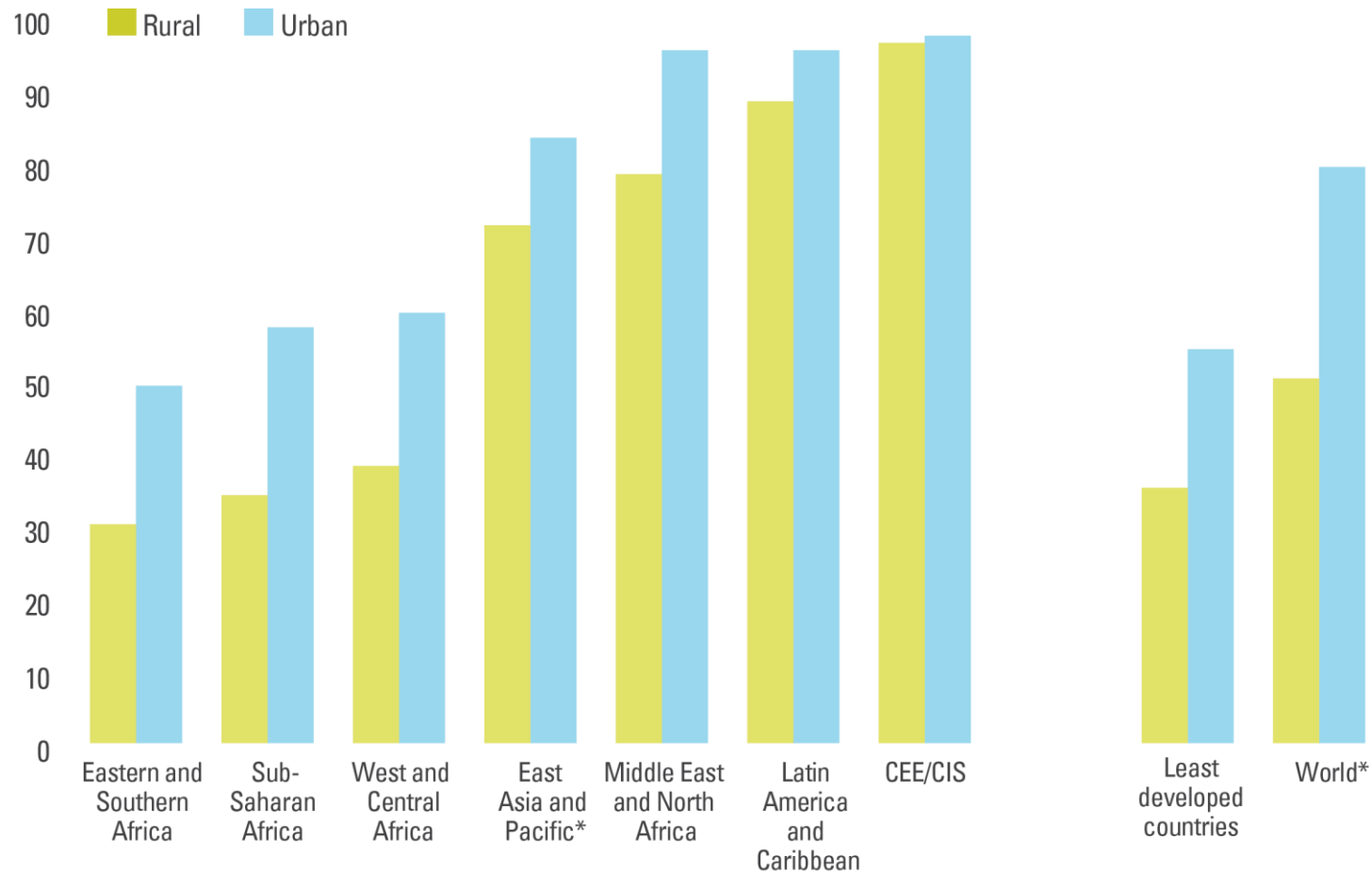
- Some facts and figures on official identification in Africa
- Some reflections on how identification works in practice
- The relationship of documentation to nationality
- Who is at risk of statelessness
- The limits of technology

Existence of systems for birth registration and identification in Africa, 1960-2015

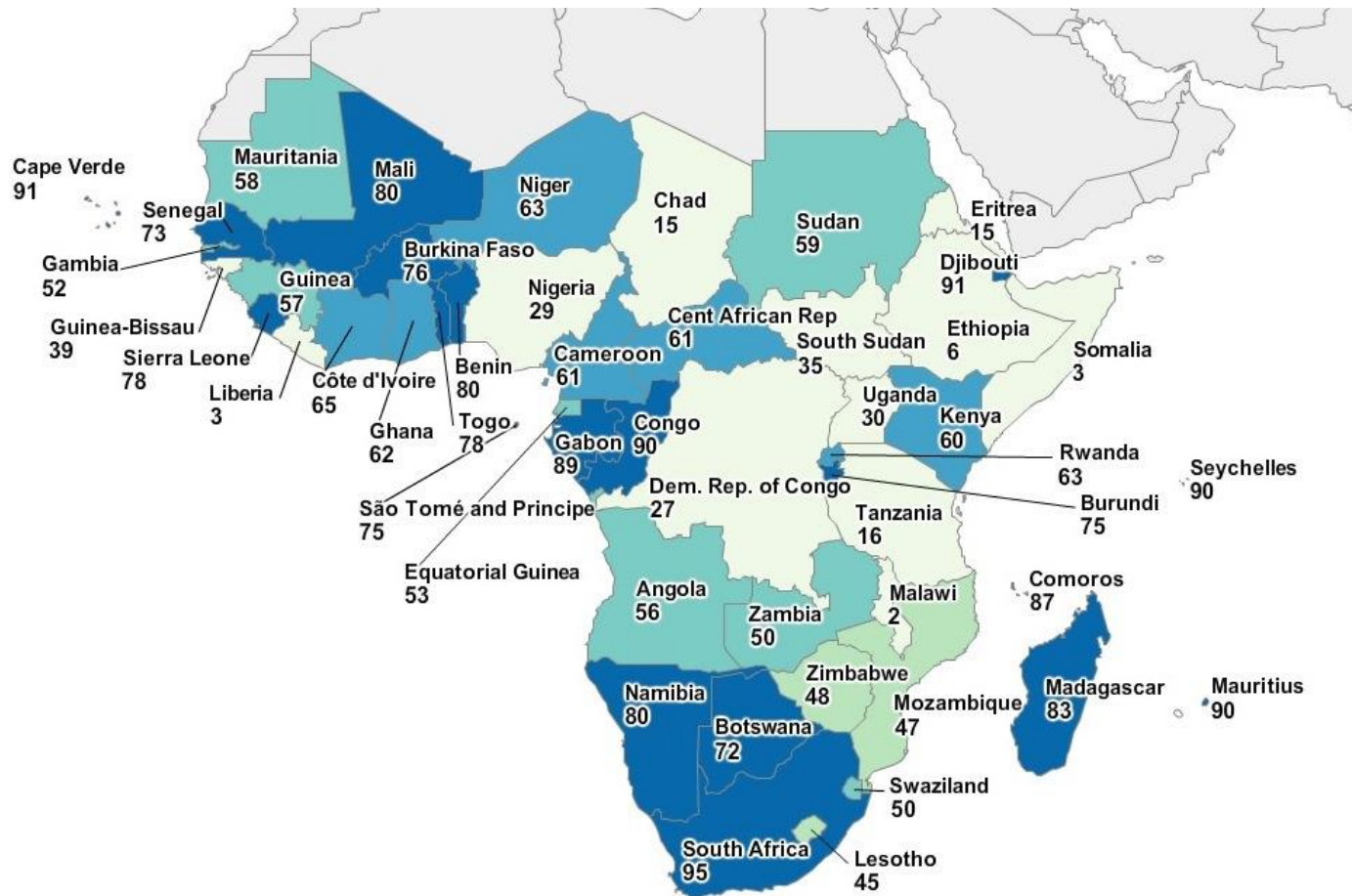


Source: World Bank Identification for Development Dataset

Birth registration rates globally (UNICEF)



U5 birth registration rates sub-Saharan Africa



Source: World Bank / UNICEF

Civil registration record from 1964, Côte d'Ivoire

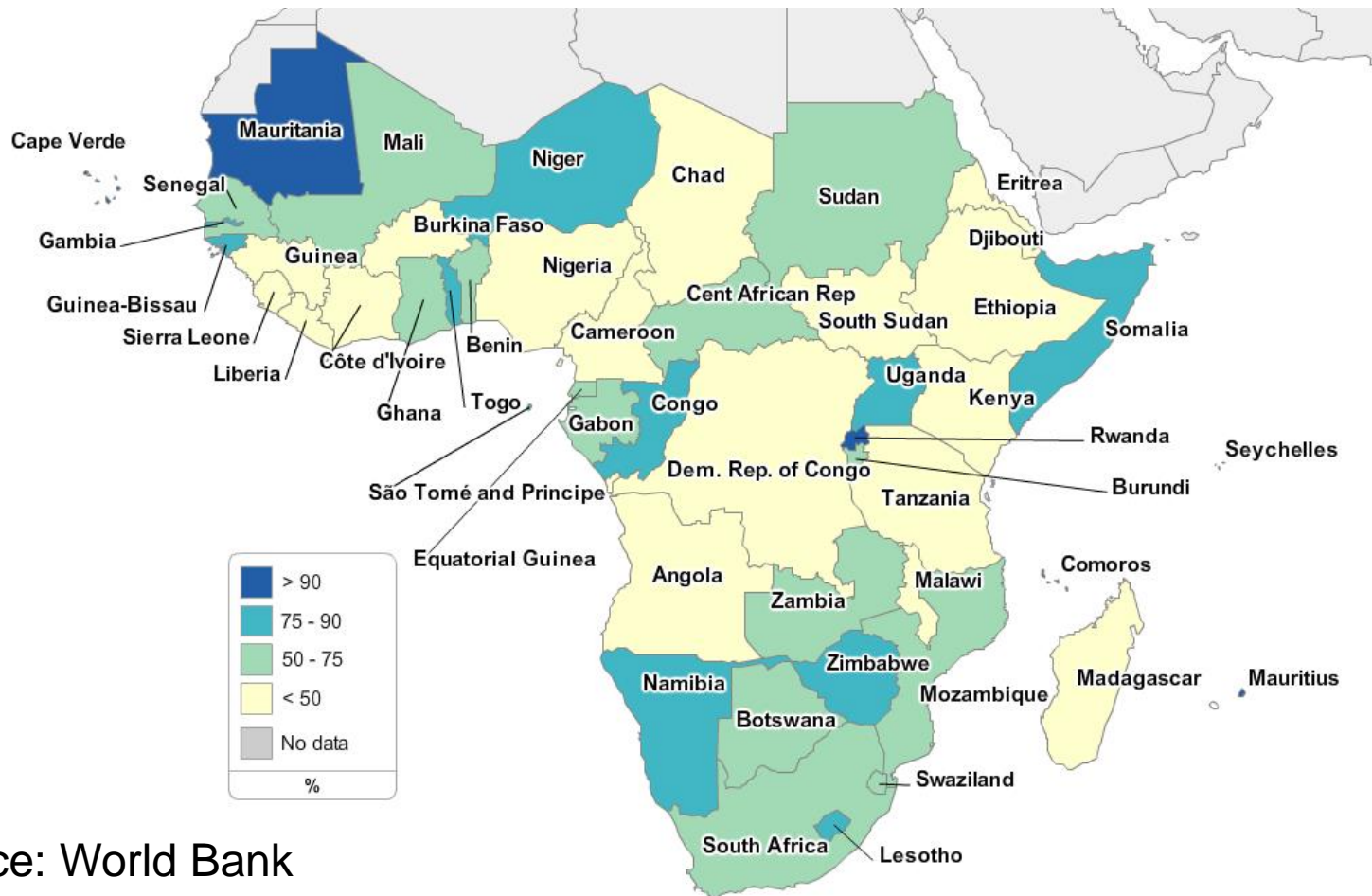


Identification for adults



- Unlike birth registration, no global standard
- National ID cards
- Voter ID cards
- Certificates of origin/attestations of various kinds
- Passports
- Certificates of nationality

% population with national ID or voter ID – Sub-Saharan Africa



Source: World Bank
(treat data with caution)

ID in practice: The case of Ethiopia



- Population c. 100 m; average income c. \$500 per capita
- 7% birth registration (UNICEF)
- System of local government dates back to the socialist “Derg” period (1975-91), highly controlled
- “Kebele ID” (paper) issued by c.16,000 local govt authorities based on attestation by head of each unit of 30 people (5 families), necessary for :
 - voter registration • drivers licence • bank account • SIM card
 - passport • tax ID • cash transfer program • registering property
- 2012 proclamation on civil reg. & national ID card (will incl. ethnic origin and religion as well as nationality)
- Officially launched 2016; 300k vital events registered by May 2017

Identification and nationality



- It is often not clear who is or is not a national:
 - Most forms of ID are not legal proof of nationality
 - Many people will have some forms of ID but not others
 - Not all nationals have an ID document (of any kind)
 - Not all stateless persons do not have ID

Nationality law is complicated



Right to nationality based on birth in the country

Country	Birth in country	1 one parent also born	Birth + res at majority	Otherwise stateless	Parents stateless (s) or unknown (u)	Foundlings
Algeria	Y	JS/2^~			u	x
Angola				os	s + u	x
Benin ^a		JS/2	(JS+)(JS)		s + u	x
Botswana						
Burkina Faso		JS/2	(JS+)	os	u	x
Burundi					u	x
Cameroon		JS/2	(JS)	os	u	x
Cape Verde	JS*			os	s + u	
CAR			(JS)		u	
Chad	JS			os	u	
Comoros			(JS)			x
Congo Rep.		JS/2	(JS+)		u	x
Côte d'Ivoire						
DRC~			(JS)		s + u	x

!! legislation conflicts with the constitution

JS: jus soli attribution: a child born in the country is a citizen

JS*: child born in country of parents who are legal residents is a citizen

(JS): child born in country of non-citizens is eligible to apply for citizenship at majority and/or after residence period

(JS+): child born in country of non-citizens is automatically attributed citizenship at majority and/or after residence period

JS/2: double jus soli attribution: child born in country of one parent also born in the country is a citizen

JS/2x2: child born in country of both parents also born there is a citizen

(JS/2): child born in the country of a parent also born there has the right to opt for nationality

~ racial, ethnic or religious discrimination in law impacts on jus soli rights

^ Rights to citizenship from grandparents

Gaps in the law creating a risk of statelessness



- State succession (at independence & since)
- Gender discrimination in transmission to children (10+ states)
- Weak rights attached to birth in the country
- Racial and ethnic discrimination (5-10 states)
- Dual nationality rules easily misinterpreted
- Naturalisation very difficult to access
- Constitution & laws conflict (eg Bur, Lib, Togo)
- No process to identify stateless persons

The importance of administrative systems



- Civil law vs common law heritage
- Weakness of civil registration & (lack of) availability of late registration
- (Lack of) admissibility of other forms of evidence
- Conditions to obtain identity cards & passports – “vetting”
- Official and unofficial costs
- Due process, possibility of appeal, who has final decision
- Certificate of nationality in civil law systems has no equivalent document that is conclusive proof in common law countries

Birth registration is critical



- Not proof of nationality (in most countries)
- But is the most authoritative proof of the facts that enable nationality to be claimed (place of birth and identity of parents)
- In some countries & in some circumstances BR is an explicit requirement for nationality to be claimed
 - Most civil law countries (& eg Mauritania removed right to late registration in 2010)
 - South Africa – for rights based on birth in South Africa (not required for rights based on descent)
- Hugely varied in format (one US govt study found 14,000 variants of birth certificates globally)

But birth registration does not guarantee nationality



- Mostly straight forward
 - One or both parents are nationals of the country of birth (and have proof of nationality)
- Not always straight forward:
 - Only one parent (the mother) is a national
 - Child born out of wedlock
- It gets complicated when:
 - Neither parent is a national of the state of birth
 - Parents are refugees
 - Parents are irregular immigrants
 - Parents are members of disfavoured ethnic group

Niger: Carnet de famille



“Etr Zongo”
= étranger / foreigner:

« foreignness » is a matter of interpretation

When nationality is recorded, it is often done by officials with no training in the law

Statelessness a problem of unknown size



- Stateless person: a person “not considered as a national by any state under the operation of its law” (1954 Convention) – a “mixed question of fact and law” (UNHCR)
- In Africa no meaningful statistics: when is an undocumented person stateless?
- UNHCR estimates (2015):

700,000 Côte d’Ivoire	1,302 Burundi
20,000 Kenya	1 Liberia

+ an unknown additional number in other named countries (DRC, Eritrea, Ethiopia, Madagascar, S.Africa, Zimbabwe)
?? Algeria, Egypt, Mauritania, Mali, Nigeria, Sudan...

Taxonomy of those at risk of statelessness

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- **Migrants & (especially) their descendants**
 - Pre-independence (Asians, “Lebanese”, other Africans)
 - Contemporary: voluntary, involuntary; internal, external
 - **Cross border populations**
 - Groups divided by international borders
 - Nomads (eg Tuareg, Fulani)
 - Border changes / new states (Sudan/S.Sudan, Ethiopia/Eritrea, Bakassi Peninsula)
 - **Vulnerable children (who become adults)**
 - Foreign fathers, out of wedlock, abandoned, orphans
 - Child workers, trafficked, forced marriage

The limits of technology



- All identity systems in the end depend on reliable witness testimony & institutional systems that gradually substitute for that testimony
- Identity systems in Africa vary enormously, but many still depend to a great extent on witness testimony
- The law is not always applied by the relevant authorities as it appears on paper
- Conflict & migration disrupt both formal identification systems and the availability of witness testimony
- Biometric identification may have many uses, but it cannot tell you who is a national