

## Concept Note – Private Sector Engagement Roundtables on Future Technological Progress and Institutional Governance in Identity Management

### 1. Background

Everyone has the right to ‘legal identity,’ i.e. to be recognised as a person before the law, as enshrined in Article 6 of the Universal Declaration on Human Rights and several international human rights instruments.<sup>1</sup> Hundreds of millions of people continue to live without valid proof of legal identity, however, with up to 166 million children’s births unregistered.<sup>2</sup> Fully functioning and universal registration of births and deaths, for example – essential instruments for conferring and retiring legal identity, respectfully – is lacking in almost half of the world’s countries.<sup>3</sup> In order to close the global identity gap, a UN inter-agency task force, the United Nations Legal Identity Agenda Task Force (UN LIATF, co-chaired by UNDESA, UNDP and UNICEF) is working towards a benchmark goal—to reduce the global identity gap by over 300 million by 2025.

The Task Force is cognizant of the enormous expansion of the use of digital technologies in civil registration and in the management of peoples’ identity by UN Member State governments in recent years. This includes not only developments such as the digitisation of databases and issuance of national identity cards/numbers (as part of a national identity register/national population register process) to adults (and some younger teenagers) in over 130 Member States, but more recent developments such as:

- The capture and de-duplication of biometric data (usually fingerprints but also recently iris and/or face) in order to ensure uniqueness of a person’s presence in an identity database;
- Increased use of biometric data as a means to identify or authenticate a person’s identity in order to access many public services;
- Increased digital ‘interoperability’ between different government databases (e.g. social security, taxation, driver licensing) via either ‘above water’ markers (such as unique ID numbers, issued to and known by each person) or ‘below water’ digital markers (not communicated to the person), to help notify different state agencies where the same person is registered for different services;
- Use of digital legal identities to access public (and increasingly private) services online;
- Use of third party private sector actors (such as banks) to verify physical identity credentials and issue digital credentials, under licence or authority from the state, for public service online access;
- Issuance of digital certificates either in place of, or an addition to, paper or plastic credentials such as birth certificates, driver licences and national identity numbers;
- Pilots in using distributed ledger technology as the system architecture for national ID schemes.

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<sup>1</sup> 1948 Universal Declaration of Human Rights, Articles 6 and 15; 1951 Convention on the Status of Refugees, Arts 25 and 27; 1954 Convention on the Status of Stateless Persons, Arts 25 and 27; 1961 Convention on the Reduction of Statelessness, Arts 1-4; 1969 International Convention on the Elimination of All Forms of Racial Discrimination, Article 5(d)(iii); 1966 International Covenant on Civil and Political Rights, Article 24; 1979 Convention on the Elimination of All Forms of Discrimination Against Women, Art 15.2; 1989 Convention on the Rights of the Child, Arts 7-8; 1990 International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, Art 29; 2006 Convention on the Rights of Persons with Disabilities, Art 18. The right to personhood before the law is non-derogable—meaning it is *considered such a fundamental human right that it can never be restricted nor be suspended, even in an emergency*. Under the 1966 International Covenant on Civil and Political Rights, Art 4 (2), non-derogable rights are: the right to be free from arbitrary deprivation of life; the prohibition of torture and other ill-treatment; the prohibition of slavery, imprisonment for debt and retroactive penalty; recognition as a person before the law; and freedom of thought, conscience and religion.

<sup>2</sup> UNICEF (2019). [‘Birth Registration for Every Child by 2030: Are we on track?’](#)

<sup>3</sup> ID4D Dataset. The methodology used to calculate these data is the subject of discussion between the UN and the Bank.

Less prevalent have been adaptations in the institutional governance of civil registration and identity management. With some noticeable exceptions, the broad trend across the world appears to be that traditional civil registration of major life events (births, deaths, marriages, divorces) has remained under the control of local government structures such as mayor's offices and municipalities/communes, whereas management of national population registers or national identity registers (with or without the issuance of national ID cards) has been placed under the authority of either a central ministry (such as an 'interior' ministry) or the police, or under a new national body created specifically for that purpose (e.g. a 'unique identity authority' or a 'national registration bureau').

### **Some challenges arising**

'Centralising' national identity registers under the control and management of one state ministry/agency, but maintaining decentralised civil registration, tends to result in fractured systems and less than universal coverage in either system, where:

- Birth and death registration are treated as standalone 'life events' (rather than the beginning and end of a seamless, holistic management of identity);
- Adult population registers (most schemes tend to start at either the age of 16 or 18) are populated with countless numbers of young people whose identity cannot be accurately verified when they enter the system (as they enter without a birth certificate), and where deceased people can only be removed with great difficulty when they die (thus resulting in bloated registers with ever-increasing numbers of deceased persons).

'Merging' civil registration with identity management systems such as national population registers, however, brings its own challenges and may not be suitable for many societies. One legal identity derived from a 'source' legal identity (birth certificate or national ID), for example, used across all state functional identity systems (e.g. voting, driver licencing, social security, tax, etc), is financially cheaper, more institutionally efficient and helps combat identity fraud. But it also, however, creates a 'single point of failure' honey-pot for hackers, and allows for easier surveillance and profiling of citizens by autocratic governments. Multiple unlinked functional identities separately entered and verified across different systems, however, may be more privacy-protective, but are financially and institutionally unsustainable, and create easier opportunities for identity fraud.

These issues and debates, many of which have been around for decades, have been added to by a newer series of issues. The efforts of some digital rights groups in recent years, for example, have raised profound questions about where the boundaries should lie between:

- the state's right to impose identity variables on an individual within an identity system that the individual may not recognise (such as religion or sex as recorded at birth), and;
- the right of the individual to demand the state recognise and document, in identity systems, elements of identity centrally important to their sense of self (e.g. gender or ethnicity), on the basis of a self-declaration only.

These issues will become even more complex as identity management "internationalises" further in the coming years. The COVID-19 pandemic has dramatically increased remote working, for example, a

noticeable amount of which has seen people work remotely from foreign locations. Expansion of ‘digital nomad visas’ (currently offered, for example, by Barbados and Croatia) will no doubt increase in the post-pandemic world. Coupled with mass migration from the global south to the north in the coming decades, an increasing proportion of people will likely make their living – both temporary and permanent – in foreign countries. Subsequently, a larger proportion of the global population will live with legal identities issued by a foreign state, and these increased migration flows, particularly seasonal or temporary, may render obsolete concepts of ‘permanent residence’, which will complicate efforts to tax individuals in different jurisdictions at different times. All of these factors will lead to inevitable discussion as to how foreign governments can or should be facilitated to access each other’s identity management systems to both a) verify a person’s identity and their identity history, and b) document economic activity conducted in different jurisdictions so as to apply appropriate tax treatment.

### **Objectives**

With these developments in mind, the UN Legal Identity Agenda Task Force needs to be informed on developments in the private tech sector identity space that will affect public management of identity in years to come. This is to ensure that when the UN is advising the Member State governments that request its assistance in expanding legal identity, the UN is able to advise on the most sustainable, appropriate and up-to-date technologies, and, just as importantly, that the technology being procured today for rollout tomorrow will not become obsolete in the near future.

As co-chair of the Task Force, UNDP thus wishes for a more formal engagement with the private technology sector moving forward. Too often, interactions between the international development community and the private technology sector on “the future of identity” happen only in an *ad hoc* manner at trade shows, or on the margins of identity conferences.<sup>4</sup> Along with the result that national identity managers and international identity system providers cannot clearly articulate their needs and perspectives to each other, the actual policy perspectives of identity system providers (e.g. what the private sector consider to be ‘appropriate’ levels of state control over identity, or what identity variables should be left largely to the individual to determine) are largely unknown.

The UN needs to learn more, therefore, from the tech sector about the future of identity technology, and the both the UN and the tech sector need to learn more from each other on their perspectives on the policy debates. Both sides need to learn from each other on how technology will affect, and, to what extent influence, debates around institutional governance of civil registration and identity management. Ultimately, this engagement needs to focus on ways that the private sector (as well as technology-based not-for-profit initiatives) can contribute to advancing national civil registration and identity management systems and processes with the view to both solving the global identity gap, but also doing so in a manner to protect personal data and privacy in a secure, transparent manner.

## **2. Online Roundtable Dialogue**

The UN Legal Identity Agenda Task Force is already moving forward with separate activities (outside of what is envisaged here) mapping and developing best practice guidance in the areas of biometric technology (Activity 1.2.3, led by the World Food Programme) and privacy and data protection (Activity 1.1.3, led by UNDP and the Office of the High Commissioner for Human Rights), both of which will involve

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<sup>4</sup> A notable exception to this problem are the conferences and webinars organized by the ID4Africa movement.

separate consultations with selected private sector representatives. For the purpose of achieving the objectives set out above, however, UNDP aims to conduct a two-day online roundtable dialogue in May, 2021 with experts from the private sector, to map out both broad technological developments in the identity management space likely to take place in the coming years, and the political debates that will both inform and be influenced by same. A draft agenda is attached. For proposed participants, the registration process, to be launched in early 2021, will include a short questionnaire designed to elicit some views that can be discussed within the roundtable dialogue.

The summary document of the policy dialogue roundtable will be forwarded to all participants, as well as members of the UN Legal Identity Agenda Task Force (for their consideration when advising/adopting digital innovations in identity management with national partners and their client populations).