PROMOTING BIRTH REGISTRATION IN SUDAN

STRATEGIES TO ACHIEVE REGISTRATION COMPLETENESS

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Cover Photo: Erica Masiero

GLOSSARY

Aadhaar	Name of India's unique identification number
DAC	Development Assistance Committee OECD
IDP	Internally Displaced Person
CRC	Convention on the Rights of the Child, *also* Committee on the Rights of the Child (Geneva)
GNI	Gross National Income
ICT	Information and communication technology
Km2	Square kilometer
M	million
MICS	Multiple Indicator Cluster Survey
MOI	Ministry of Interior
MOH	Ministry of Health
NADRA	National Database and Registration Authority (Pakistan)
NCCW	National Council for Child Welfare
OECD	Organization for Economic Cooperation and Development
UIDAI	Unique Identification Authority of India
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNSD	United Nations Statistics Division
>	Larger than

PREFACE

The Civil Registration Centre for Development-CRC4D was requested by UNHCR Sudan to make a contribution to a workshop on birth registration, co-organized by the Ministry of Interior, the National Council for Child Welfare (NCCW), UNHCR, UNICEF and Plan International. The strategies presented in this report are aimed at improving birth registration within the broader system context of civil registration. It is important to note, though, that especially in the early development stage of a civil registration system birth registration may account for 60—80% of the activity in a registration office. This is very different for mature systems, which capture a much broader range of vital events, and in which the registration of vital events becomes a minor part of overall activity, greatly overshadowed by the issuance of extracts, verification activity and, increasingly, by international registration activity (including citizenship matters) as a result of globalization and greater international mobility of persons.

This assignment and report do *not* address the specific civil registration, documentation and civil status issues—other than in an indirect or tangential way—of the people who are either internally displaced within Sudan, who are nationals of Sudan having sought refuge abroad or non-nationals who have found exile within Sudan's borders, as the scope of CRC4D's terms of reference did not provide for such at this junction.

EXECUTIVE SUMMARY

Birth registration rates in Sudan have varied between 40 and 60% in the past 15 years. Death registration rates are very low (perhaps as low as less than 5%). With a population of 37 million and a land area of 1.9m km2 Sudan's population density of 19/km2 is low even by African standards. Measured against the country's $1,270 per capita income (GNI) birth registration rates are a few times what would be expected on average at this income level, and in some parts of the country as well as among the richest 20% of the population birth registration coverage is actually complete according to the UN definition (>90%). Sudan thus does remarkably well, and political will is without a doubt among the reasons why that is so. However, the turmoil in the country has seriously affected registration in a number of provinces and conflict areas, although recovery since 2006 is noticeable too.

Sudan has also a record of civil registration best practice. From the law of 1929 (the first law was from 1904; Sudan gained independence in 1956) until the change of law 2001 (previous changes were in 1972 and 1995) the Ministry of Health has been the prime responsible ministry for civil registration, collaborating from that time with the Central Bureau of Statistics. The Constitution of 1998 introduced decentralization towards newly created states, and required the change of the law in 2001. The Ministry of Health was decentralized as well (although the federal Ministry of Health retained some countrywide responsibilities) and the responsibility for civil registration moved to the Ministry of Interior—a de-concentrated ministry that for a typically national function as civil registration is the preferred organizational embedding. The Ministry of Health is still involved in the notification task. Very rare, but certainly a very good practice is the fact that the law of 2001 includes not only the main vital events of birth, death, marriage and divorce, but also the national ID (and change of address), and it is the same ministry that is responsible for civil registration and the national ID. It is ambitious though that Sudan's aspiration is to build a population register, which is also evidenced by the unusual practice of registration of vital events in the place of residence of the head of the household. For that to work it is necessary that Sudan will have a countrywide civil registration service that is digital and on-line.

We estimate that at least half of the population lacks documentation and/or isn't registered, and suspect that the quality of records of those registered may not be of such an impeccable quality that would rule them in as acceptable for inclusion in a population register. The announcements of the government are that it is the intention to register all in the country within in a short period of time, through a mass registration and the use of (about 1,400) mobile units. We fear that too

single-mindedly focusing on universal registration risks to not meet the desired results. First, as we explain, before a mass registration it is necessary to put in place a countrywide civil registration service which does what is expected of civil registration: the <u>continuous, permanent, compulsory and universal registration of vital events (in Sudan's case "registration of vital events" to be expanded to include "capturing of data on change of residence" and "issuance of new and intake of expired national identity cards")</u>. Unless this infrastructure is put in place first the mass registration (and mass issuance of civil registration extracts and IDs) will only render a snapshot of the population already out-of-date the very first day after the mass registration is concluded. *The infrastructure for the day after the mass registration should come first.* In this report we also recommend to separate the registration of the "common" Sudanese national from the registration (and regularization of the status) of the more complex cases whose status is either that of an internally displaced person, non-Sudanese refugees within or Sudanese nationals, including refugees residing outside the country, individuals residing in conflict areas as well as pastoralists moving across the borders.

Much can be learned from practice and experience elsewhere, and Sudan is, for example, receiving advice from NADRA (Pakistan) which has done a remarkable job and has even been successful in winning a competitive bid for the national ID of Nigeria. In this report we mention the world's largest national ID undertaking: India's "Aadhaar" project, and especially its pragmatic enrolment policy (the "introducer system"), but also its cost of only $2 per enrolment, kept that low by the use of public-private partnerships. This is an example of one of the four so-called "i-strategies" we recommend to achieve registration completeness: international collaboration (and exchange/learning). The first i-strategy is to replace the paper-based registration system by "ICT", the digitization of the civil register as well as moving towards electronic transmission through the Internet and mobile phone networks. The 2nd i-strategy is to forge strong "inter-operability" with the health sector, between civil registration and national ID (already good practice in Sudan), and between social protection programs and civil registration. The 3rd i-strategy is to use (positive) incentives for registration, among which social transfer programs are important. In an indirect way the removal of obstacles such as cost and distance will result in lower thresholds. The easier it is for the citizenry to access the civil registry the less the need for positive incentives to overcome the real or perceived costs of using the service.

When an integrated, comprehensive, appropriate, low-cost and technology-driven, sustainable and inclusive program approach is developed substantial international support could be obtained.

"YOU SHALL GIVE YOUR ADOPTED CHILDREN NAMES THAT PRESERVE THEIR RELATIONSHIP TO THEIR PARENTS. THIS IS MORE EQUITABLE IN THE SIGHT OF GOD. IF YOU DO NOT KNOW THEIR PARENTS, THEN, AS YOUR BRETHREN IN RELIGION, YOU SHALL TREAT THEM AS MEMBERS OF YOUR FAMILY." (QURAN 33:5)

1. INTRODUCTION

In the last few years Sudan has taken steps to get to grips with a challenge the country shares with virtually all other African countries and then some more: to include all people within its borders into a system of civil registration. Sudan has commonalities with its Arab northern neighbors—from Morocco in the west to Egypt in the east—that have civil registration systems with complete coverage. It also has commonalities with its Sub-Saharan neighbors, where civil registration is often a never-ending slug or does not even exist. With a birth registration rate for under-five children that has varied between 40 and 60% and virtually no registration of deaths the country wants to join the north but has to overcome the obstacles of the south. The instability in the country (e.g. Darfur) and across its borders (e.g. Somalia, Central African Republic), and the breakaway of South Sudan in 2011, have led to a formidable task as the country now not only has to register most of its own population of about 37 million. It has to manage a complicated caseload of almost 2 million internally displaced persons among the Sudanese citizens as well, hundreds of thousands refugees who fled into the country or out of it, and about 700,000 people of South Sudanese origin whose legal status needs to be settled by April 2012.

New civil registration and national ID law passed in 2011 has brought the Sudanese government, the National Council for Child Welfare (NCCW) and development partners together to find pathways to the solution of complex civil registration and documentation problems. A workshop on the promotion of birth registration spearheaded by UNHCR and co-organized with the ministry of Interior (MOI), UNICEF and Plan International was held in Khartoum on the 24th and 25th of January 2012. The Civil Registration Centre for Development (CRC4D) was invited to meet with key stakeholders and deliver two presentations (an international best practices presentation on civil registration and ID management, and a presentation on possible strategies for Sudan). This report encapsulates the result of CRC4D's quick assessment and findings. As the assignment was of limited scope and duration the report is to be viewed as a provisional, first cut of a strategy document.

2. CONDITIONS FOR CIVIL REGISTRATION

Sudan is a vast country, 1.9 million square kilometers large. In Africa, only Algeria and Congo (Kinshasa) are larger. The population is estimated at 37 million (2011 estimate). At 19 people/km2, population density is one of the lowest in Africa, and well below the 30/km2 average for Africa. Sudan's income per capita at $1,270 (2010) puts it in 17th place among 52 African countries. The secession of South Sudan in 2011 is assumed to reduce Sudan's oil income, gross national product, government revenue and personal incomes.

Population density, a population's disposable income and government resources available are among the most important factors that impact

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[1] Ibn-Khaldoun, **Discours sur l'histoire universelle**, translation Monteil, 3 vol., Impr. Catholique, Beyrouth, 1967, vol. I, p. 259.

on a country's ability to deliver civil registration services (the registration of births, deaths, marriages and other vital events) to its people. The relationship between personal income and registration completeness is shown in the graph below.
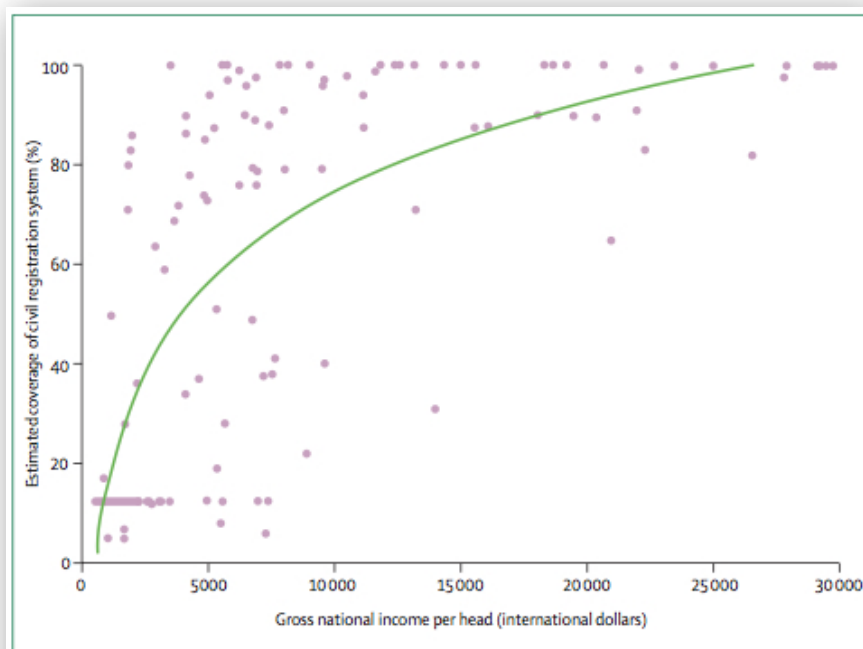

Figure 3: Association between estimated coverage of civil registration and gross national income per head, 1998–2004

Source: Setel, Philip W. et al., *A scandal of invisibility: making everyone count by counting everyone, Who Counts?1*, **The Lancet** 2007; 370: 1569-77

The graph shows that when a country surpasses the $10,000/capita income level it is rare to be anywhere below 80% registration. Besides the ability of people to pay for registration services they are also able, through the payment of taxes, to provide the government with the resources to deliver civil registration services. At the same time, economies that generate personal incomes at levels of $10,000/capita and higher become increasingly sophisticated and this sophistication comes with a more frequent need to ascertain identities, for example for the opening of bank accounts, the enforcement of contracts, and so forth. The officially established legal identity of people becomes a necessity for such economies and societies to function "normally".

Documenting one's identity is nothing new or modern. From the time people became familiar with paper and writing, about 800 years ago, it "was imprudent for anybody [in England] to wander from his village without some form of identification in writing".[2]

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[2] Cf. Clanchy, Michael, **From Memory to Written Record: England 1066-1307**, Oxford 1993, p. 33

Sudan, for its position on the income ladder, is achieving registration completeness levels well above what would be expected: while less than 20% would be "normal", birth registration rates for children under five were measured at 59.3% in 2010, putting the country at 21st spot in Africa among 54 countries. In 1994 Sudan reported its birth registration rate at 25% and its death registration rate at 5%[3], indicating that in the

BIRTH REGISTRATION RATES UNDER-FIVE YEAR OLDS, BY STATE, 2000, 2006 AND 2010
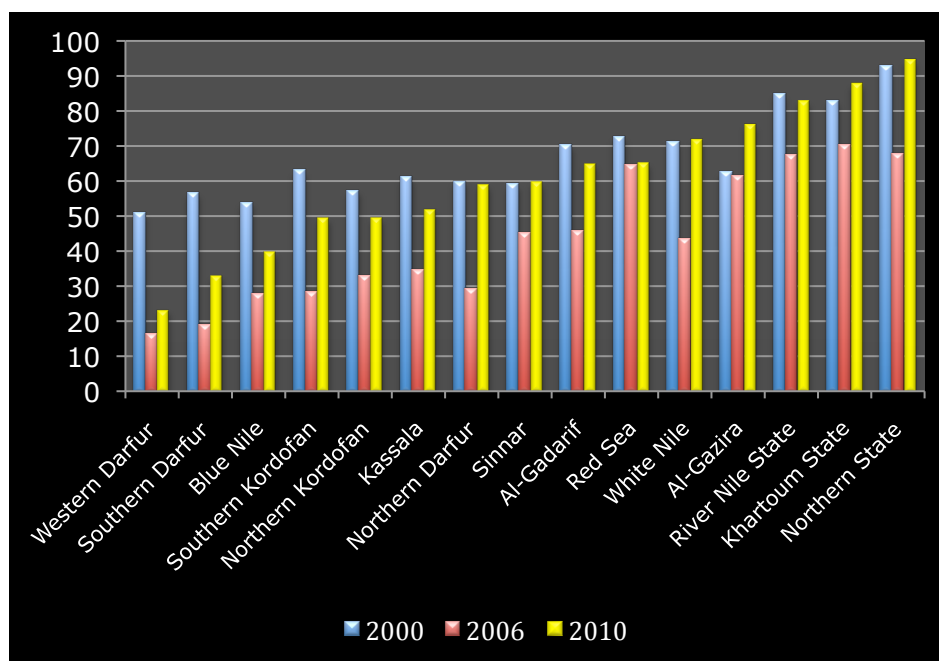
Source: [4]

1994-2010 period much progress seems to have been made. But registration rates have dropped substantially in the 2000 through 2006 period, as the under-five birth registration rate was 63.9% in 2000 and only 43.2% in 2006, increasing again to 59.3% in 2010. The data show improvement of registration over the whole decade for children in urban areas (from 82.2% to 84.5%) and those in the wealthiest quintile (from 95.2% to 98%) notwithstanding the overall slide, mirrored in the decline of registration among the poorest quintile from 33% to 26%.[5] The inevitable conclusion is therefore that inequity has increased over the decade. The plausible explanation is that the poorest people in Sudan and government services delivered to them will have disproportionally suffered from the insecurity in parts of the country over the past decade. Close inspection of the data indicates that in the later years of the decade registration may have picked up again.

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[3] Cf. *http://unstats.un.org/unsd/demographic/CRVS/CR_coverage.htm*
[4] Cf. Federal Ministry of Health et al., **Multiple Indicator Cluster Survey 2000**, Khartoum 2001; Government of National Unity et al., **Sudan Household Health Survey 2006**, Khartoum 2007; [Unknown, UNICEF], **MICS4**, Khartoum
[5] Cf. note 4.

The regional data in the graph below show that registration rates have especially suffered in the states of Western, Southern and Northern Darfur, Blue Nile and Southern Kordofan, states that were already having the lowest registration rates in 2000. But in all states rates have come back—in a few to levels that are better than they were in 2000. Birth registration rates in Khartoum State and Northern State are complete according to the official definition (>90%). Northern State is an interesting example of a state with an unexpected high level of registration. While it is the largest state, having the lowest population density, its population is living mostly along the Nile and therefore can be relatively easily reached for government services. Population density thus is a determinant of the feasibility of delivery of government services that needs to be used carefully.

It is important to realize that the under-five birth registration rates should not be misinterpreted as a proxy for the registration status of the population at large. For the under-15 (fifteen) a 50-60% birth registration rate might be a close estimate. For those older than fifteen years of age (i.e. those not captured by the three MICS surveys) no birth registration data are available. As regards death registration, one study came to an estimate of 4.4% for the death registration rate in 2002—close to the 5% reported for 1994.[6]

The insecurity in parts of the country has led to large displacements of persons within the country, with the numbers of internally displaced people being no less than 1.8 million according to UNHCR data, and an estimated 380,000 Sudanese nationals having found refuge outside of Sudan's borders, while the country is host to 180,000 refugees from surrounding countries (most of them from Eritrea and Chad), some of which are in an ongoing state of turmoil themselves. The civil registration of these groups, which is of special concern of UNHCR, is intrinsically complex and has utmost individual and public importance at the same time. The secession of South Sudan has created a serious new problem for approximately 700,000 people of South Sudanese origin residing in Sudan whose nationality status needs to be resolved before 19 April 2012. The large numbers of mostly undocumented internally displaced people, refugees and people of South Sudanese origin have been among the reasons that have spurred the government of Sudan to passing new laws on registration and nationality and the launch of a new national civil registration and national ID issuance effort during the course of 2011.

The registration task facing Sudan is formidable, without a doubt. No data are available for the number of people in Sudan who haven't

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[6] Cf. Abdalla, Safa Ibrahim Abdelaziz et al. , Completeness of adult death registration in Sudan in 2002, **Sudanese Journal of Public Health 2007**, Vol. 2 (3), pp. 152-156.

been registered or lack an ID. If national rates of birth registration of 35% reported in 1994 were maintained until 2000, and the 0-15 year olds, measured through the three surveys in 2000, 2006 and 2010, have an average registration rate of 55% then about 45% of the population is registered, and 55%, ca. 20 million people, is not. But India shows that mass registration is possible. In that country currently 1 million people are registered per day, in 20,000 registration points across the country, through the so-called *"Aadhaar"* project of the Unique Identification Authority of India (UIDAI). The costs in India are said to be just 100 Rupees or $2 per enrolment. The question is whether Sudan can afford such costs.[7] It is important to realize that population density in India, 400/km2, is no less than 20 times the population density in Sudan (income per capita is about the same). The logistical challenge in Sudan, and therefore the costs, of mass registration are of a different magnitude, and may well work out to be a multiple of $40m at the India cost of $2/person. One particular practice we would recommend is the "introducer system".[8] We will come back to this in chapter 4.

If the mass registration of the ordinary Sudanese nationals who are not registered yet were not already a huge task, the challenge only is more daunting still since the records for the registered Sudanese may not likely be in a state that would allow or warrant transfer to a digital database. Assuming that only the unregistered population would need registration would be naïve.

There is no clarity about the Government's agenda with regards to the national registration campaign, but there is no doubt that one of the reasons lies in the substantial numbers of IDPs, refugees and South Sudanese whose status the Government, as any other government, would want to regularize. The authorities may have the hope that a universal registration campaign would be killing two birds with one stone. We doubt that that result is attainable. What we do strongly believe is that, given a law-abiding citizenry and sustained registration completeness (i.e. in a situation whereby civil registration has become a routine process universally complied with) the management of the documentation of IDPs, refugees and other special groups can get the special attention it requires to a much greater extent than otherwise would be the case. ***In the absence still of such a situation it is wiser to look at the registration effort as one to be carried out on two tracks: one for Sudanese nationals not belonging to any of the special attention groups, and one for those groups.***

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[7] http://www.bbc.co.uk/news/world-asia-india-16979875 and *Reform by numbers,* **The Economist,** January 14th 2012, p. 47.

[8] Cf. UIDAI, **Demographic Data Standards and Verification Procedure (DDSVP)**, New Delhi 2009.

3. LEGAL FRAMEWORK

3.1 CIVIL REGISTRATION AND IDENTITY CARD LAW

Sudan's civil registration history dates back to 1900, when under colonial rule of Britain the Governor General issued an act, about the same time as occurred in Kenya and Uganda which were under British rule too (1904). In 1882 British forces had occupied Egypt on the pretext of bringing order. Egypt and Sudan remained as *de jure* Ottoman provinces until 1914, when the Ottoman Empire joined the Central Powers of World War I. Great Britain officially annexed Egypt and Sudan (and Cyprus) in response. In Uganda, a births and death registration act was introduced in 1904, along with a marriage act in the same year. It may well be that these laws were the same or very similar across the countries ruled by Britain at the time. In 1929 a new law was passed in Sudan that gave responsibility for civil registration to the Ministry of Health, and established coordination with the Central Bureau of Statistics. Sudan gained independence in 1956, before Kenya and Uganda gained theirs. Kenya and Uganda passed new civil registration laws not long after they became independent states; in Sudan it took until 1972 before the country's "own" Births and Death Registration Law came in effect. That law's jurisdiction was limited to the 15 capital cities of provinces at the time. In 1995 a new law was passed. The Ministry of Health remained in charge under the new Birth and Death Registration Act, but adjustments were made for the administrative changes in the country whereby 26 states were created, and the Ministry of Health in each state assumed responsibility for civil registration in their own territory, though they were still obliged to send returns to the federal Ministry of Health.

The 1995 Birth and Death Registration Act is, for all practical purposes, still in use, although new laws have been past in 2001 and 2011. This is because the rules and regulations accompanying the act have not yet been revoked and replaced by new ones. The Civil Registry Law of 2001, enacted after the new 1998 Constitution formalized the policy of decentralization and the creation of states, authorized the newly created states to issue laws and regulations concerning the registration of births, deaths and marriages within their own jurisdiction—a rather unfortunate devolution of power quite uncommon for the civil registration function which also in federal states (cf. India, the USA which have problems with policy and procedure variance) remains, critically, an inherently national function. The law did introduce a role for the (federal) Ministry of Interior, which is a de-concentrated ministry of government unlike the Ministry of Health, to extend the legal time

period for registration of one month under this law. In 2004 The Child Act was adopted, in which the right of children to be registered and have an official record of the registration is laid down.

From 1929 to date the Ministry of Health has played a critical role for civil registration from the community level up to central government. At the very lowest level physicians and midwives are, besides the father or mother, among those who have a duty to notify births, and health institutions are included at higher level. The health sector now has the duty to report the vital events to the civil registry at state level. Survey data for 2010 indicate that 83% of children will have the Polio 1 vaccination during the first year, which illustrates that the health sector is capable of reaching almost all families across the country.[9] There is no more reliable and cost-effective way of establishing a person's identity than at birth or immediately after when health services are delivered to mother and child. Sudan's birth registration practice, involving the health sector, is best practice, especially against the backdrop of the economic and geographic conditions of the country. Similarly, data on the causes of death are essential for public health management, and the role of the health sector in assessing causes of deaths, as well as the fact that a part of the deaths occur in health facilities, puts the health sector again in a strategic role in death registration.

In 1974 an act was passed for the creation of a Medical Commission to assess the age of late registrants. Next to the name, portrait and fingerprint, the important trinity of signs of modern identity, age is an important fourth sign—for rights, eligibility and duties, and uncertainty of age of many citizens in society can be a disruptive obstacle for its functioning "normally". While the rationale for the Medical Commission is well understood, age assessment is inherently difficult and costly, and therefore, especially when large numbers of people are targeted, often degenerates into a largely bureaucratic procedure that might as well be entrusted to lay civil registrars themselves.[10]

Although the law of 2001 is said to have had no substantive value as the rules and regulations under the 1995 act remained in place, the new law is of importance in some other respects. First of all it gave the responsibility for civil registration to the Ministry of Interior, which is a de-concentrated ministry with a vertical structure and lines of command down to the lowest level. For a typical national function as civil registration is, a decentralized structure is less conducive. The Ministry of Health has become a decentralized function with the Constitution of 1998. According to the 2001 law, police officers ("custodians") play a

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[9] Cf. [Unknown, UNICEF], **MICS4**, 2011

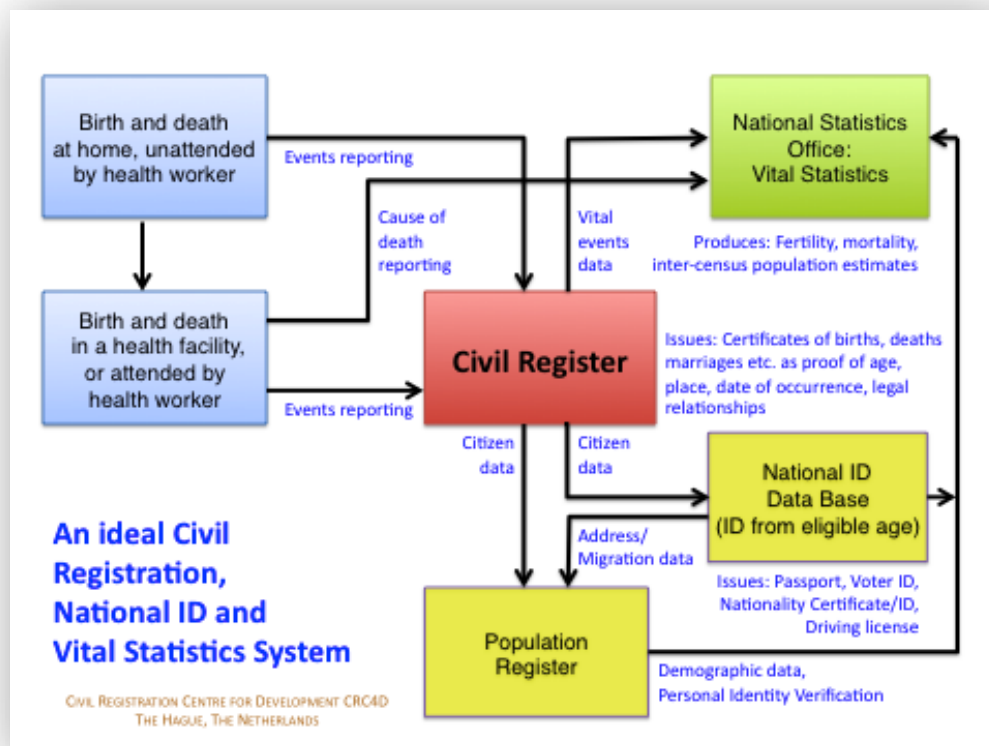[10] Based on observation of CRC4D in South Sudan as well as Cameroon.

role in civil registration at local level. The Minister of Interior and the Director of the (federal) Civil Registry are responsible for horizontal and vertical coordination with other government ministries and offices, and for that purpose a consultative council was created. Wisely, the important role of the health sector for notification remained, although now with a federal Ministry of Health having less influence within state Ministries of Health. The federal ministry of Health does perform certain tasks in a de-concentrated manner, and it would be advisable if the ministry's role for civil registration would be given that status as well, if need be by revoking some of the laws that give state ministries of health the power to issue laws and regulations for civil registration.

The 2001 law introduced a grace period for birth registration of one year, in accordance with international (United Nations Statistics Division) standards, after which a Civil Registration Committee would still be able to decide about a delayed registration through an administrative procedure, which is also good practice.

Quite a rare phenomenon but without a doubt good practice is to bring civil registration and the national identity card within one law, which is what the 2001 law does, while introducing a national number to individuals as well. The Personal Identification Card Act of 1980 was repealed with the new 2001 law. The national ID is mandatory from age 16, but can be obtained from age 7, which is known to be the age at which a person's biometrics will have become stable.

The striking peculiarity in the 2001 law is that it is based on the principle of registration of vital events in the place of residence of the head of the household (the "pater familias"). It is common for vital events to be reported in the place where they occur. Thus, when a mother, who normally lives and resides in Southern Darfur, gives birth in a hospital in Khartoum, the vital event would, according to standard procedure, be registered in Khartoum. Sudan's civil registration system thus tends towards being a population register. Population registers are generally considered to be more difficult to manage than civil registers. One can imagine that the role of local notification agents in the registration process becomes difficult to perform when it is not the local physician or midwife and local police officer who have been close to the occurrence of the vital event. To adequately administer such "out-of-place" vital events can be quite a daunting organizational challenge. Below is a diagram that shows what generally would be considered an optimal organizational "team-play".

An ideal Civil Registration, National ID and Vital Statistics System

Civil Registration Centre for Development CRC4D
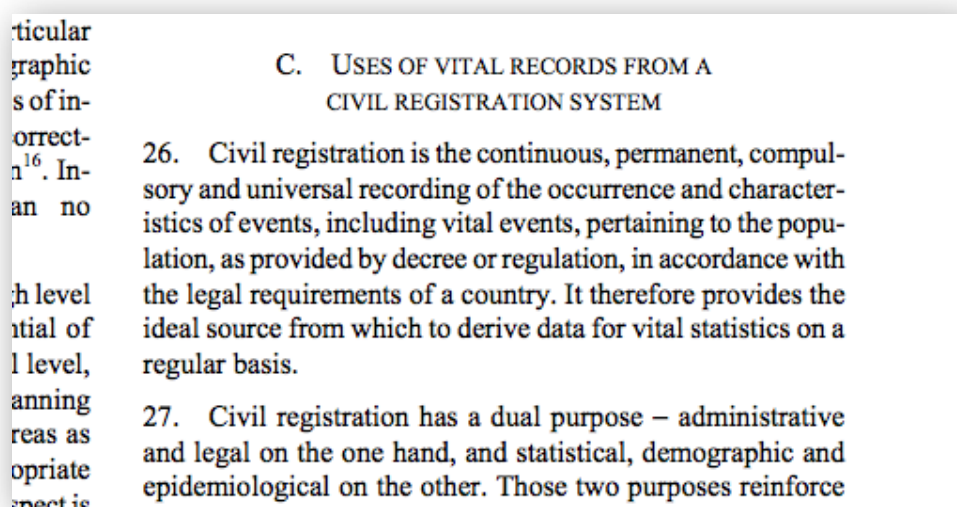The Hague, The Netherlands

In 2005 a new Interim Constitution was promulgated, which led to another new law on civil registration, the Civil Registry Act 2011, under which act the 2001 act is repealed, although "..the regulations, orders and documents issued there under shall remain valid and in force till repealed and amended..". The question is whether they are the regulations under the 1995 law, or those issued in 2005 under the 2001 law.

There are some changes as compared to the law of 2001. Probably the most important change (Art. 28.1) is that every person must register himself and all the members of his family, and obtain "civil registration certificates". There is no longer a lower age limit to the national ID. Every Sudanese reaching the age of sixteen must get one, and the "citizenship certificate" shall be cancelled and replaced by the identity card. The delayed registration procedure (after 1 year as per international norm) now has become the authority of the Director General of the Civil Registry (federal level) rather than of a Civil Registry Committee. No longer is there a "custodian" but rather (Art. 19) there will be "any person, official or popular authority to receive notices on incidents of birth and death in the areas lacking regular medical services.."

3. 2 Some Notes Regarding The Implementation of Civil Registration and National ID Law

In the previous section it was mentioned that Sudan's civil registration is based on the registration of vital events not where they occur but rather where the head of the household is registered. This requires rather precise definition of what a household is, and it is a challenge when vital events occur outside the place where the household resides. For the latter events to be efficiently managed it would be better if the notification of vital events could be done where the events occur. In a well-functioning, integrated and on-line, digitized system nationwide this may work. Reportedly the Civil Registry has the central computing facility in place.

All indications are that the ambition is to register all Sudanese and aliens residing within Sudan within a short period of time. Reportedly the Civil Registry has 1,400 mobile units to be used for registration.[11] We believe that it may be necessary to review the approach towards achieving complete registration. It is—in this context—important to go back to the definition of civil registration:

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> **C. USES OF VITAL RECORDS FROM A CIVIL REGISTRATION SYSTEM**
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> 26. Civil registration is the continuous, permanent, compulsory and universal recording of the occurrence and characteristics of events, including vital events, pertaining to the population, as provided by decree or regulation, in accordance with the legal requirements of a country. It therefore provides the ideal source from which to derive data for vital statistics on a regular basis.
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> ...l level,
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> 27. Civil registration has a dual purpose – administrative and legal on the one hand, and statistical, demographic and epidemiological on the other. Those two purposes reinforce
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> ...reas as
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> ...pect is

Source:[12]

Mobile units may be a necessary but are not a sufficient answer to the **_continuous, permanent, compulsory and universal_** recording that civil

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[11] Cf. *Interior Minister Directs Removal of Civil Register Obstacles,* **Sudan Vision,** 2551, 26th January 2012

[12] United Nations, Department of Economic and Social Affairs, Statistics Division, (1998), **Principles and Recommendations of a Vital Statistics System,** Revision 2, New York 2001, p. 4

registration requires. We will return to this in the next chapter on strategies.

3.3 INTERNATIONAL LAW AND ISSUES OF NATIONALITY AND STATELESSNESS

The changes in civil registration law in 2001, and especially those in 2011, are an attempt to address issues that would for any government be highly problematic to solve. The uncertainty about the borders dividing Sudan and Southern Sudan, the instability in other bordering states leading to refugee flows into the country, internal instability resulting in Sudanese nationals living as refugees in neighboring countries, and pastoralists living in and crossing through border areas are all part of an intricate web of problems. The country's international isolation and the loss in production, employment and revenue because of South Sudan's secession, and the change in status of about 700,000 persons residing in Sudan and affected thereby, only add additional complexity.

As a response to South Sudan's independence gained on the 9th of July 2011, new amendments were made to existing legislation.

On the 10th of August 2011 the "Sudanese Nationality Act (Amendment) 2011" was signed into law by the President of the Republic, and served as an amendment of the Nationality of Act of 1994. Most noteworthy is the replacement of article 10 in the law of 1994 by a new article, which includes the following:

Article 10 (2) A person will automatically lose his Sudanese nationality if he has acquired, de jure or de facto, the nationality of South Sudan."

Article 10 (3): "… a minor will lose his Sudanese nationality where his/ her responsible parent loses their nationality pursuant to article 10 (2) of this Act."

However:

Article 16: "… the President of the Republic may reinstate nationality to any individual whose Sudanese nationality was lost or withdrawn when s/he applies for that."

South Sudanese have been given only nine months starting 9 July 2011 to regularize their legal status in Sudan. Thereafter, they will be treated as foreigners.

Sudan is an early (1991) signatory of the *Convention on the Rights of the Child of 1989* and the *African Charter on the Rights and Welfare of the Child*. Both bodies of international law require that Sudan registers

every child immediately after birth, and that it recognizes that every child has a right to a name and a nationality. The Committee on the Rights of the Child in Geneva monitors progress countries make in the best interest of the child. In its latest report, of 2010, the Committee comments:[13]

"37.   The Committee notes with concern that, although the Child Act (2010) and the South Sudan Child Act (2008) provide for free birth registration, in practice, the cost of the service is beyond the means of most families. The Committee also expresses its concern at the inadequacy of birth registration facilities and at the general lack of awareness among the public of the importance of birth registration, as a consequence of which many children are not registered at birth. It regrets the lack of information on the implementation and impact of the State party's plan, referred to in paragraph 72 of its report, to improve birth registration.

38.   The Committee recommends that, with a view to improving birth registration rates, the State party:

(a)   Ensure that birth registration is free and compulsory in practice

(b)   Establish birth registration facilities, including mobile birth registration units, at the local, community and village levels

(c)   Conduct awareness-raising campaigns, with the active support of community leaders, to promote birth registration; and

(d)   Provide information, in its next periodic report, on the implementation and impact of its plan to improve birth registration rates."

While we agree with the Committee with regards to the registration rates of children, especially since the Committee will have based its judgment on the 2006 (MICS3) data, we believe that the remedies proposed are open to debate. We will discuss this in the next chapter. The Committee does not address the effects armed conflict has on the registration of children, which the Sudanese regional data show are serious. The problems notwithstanding, the Government has the duty to register all children born on Sudanese soil.

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[13] United Nations, Committee on the Rights of the Child, Consideration of reports submitted by states parties under article 44 of the convention. **Concluding Observations: Sudan,** Geneva, Fifty-fifth session, September —13 October 2010,

Sudan has the largest number of IDPs worldwide with an estimated 1,8 million IDPs. The *National Policy on Internally Displaced Persons* is the national legal framework for IDPs in Sudan and the norms have been developed from the international *Guiding Principles on Internal Displacement*. The National Policy foresees the *right to return voluntarily* to one's place or region from where the person fled. Displaced persons can choose an area to live in other than his or her original area or region ("*resettlement",* or relocation). The Policy recognizes the *right of movement*, *family reunification*, and *access to food*, *water and sanitation*, *shelter*, *education*, *access to documentation*, and *possession of property*, as well as civil and political rights, participation in political affairs and practicing one's religion, economic and employment opportunities, access to justice and all the rights of citizens stated in the Constitution.

Several challenges remain for the Government of Sudan in terms of applying the *National Policy on IDPs*. Displacement continued in 2010 and the rights of the IDPs are often not respected. In many areas, especially in Darfur, the Government has not been able to assist the IDPs and they cannot fulfill their basic rights such as education, health, and food security. IDPs face problems for the registration of vital events as the laws in place since 2001 are incompatible with the very fact that IDPs by definition do not have a place of residence.

In all areas, legal safety for IDPs continues to be jeopardized by lack of documentation, hindering recognition before the law, civil/political rights, and access to services and economic opportunities for local integration. In some cases, this gap stems from economic factors (cost of the documents

Sudan is a party to the 1951 *Refugee Convention* and its 1967 *Protocol Relating to the Status of Refugees* and since November 1978 to the 1969 African Union *Convention Governing the Specific Aspects of Refugee Problems in Africa*. However, a reservation to Article 26 (Freedom of Movement) of the 1951 Convention is in place. Sudan is also a party to other international human rights law, e.g. the *International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child* (see before), the related Protocols and *the African Charter on Human and Peoples' Rights*. Sudan has signed the *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* and the *Rome Statute of the International Criminal Court (ICC)* (both not yet ratified).

Sudan's asylum policy and practice are regulated by the *Regulation of Asylum Act*, which entered into force in May 1974. The administrative framework for Sudan's asylum policy and practice falls under the

Ministry of Interior—the same ministry is responsible for civil registration—and has been delegated to the Commissioner for Refugees (COR). UNHCR has been involved with COR and other government departments on drafting the revision of the Asylum Act. However, it is likely that some provisions of concern to UNHCR, such as continued restriction on freedom of movement, will remain.

Given the special difficulties for civil registration facing IDPs, refugees, asylum seekers and South Sudanese nationals in Sudan, it is recommended that efforts to address these problems do not get washed over by a national mass registration campaign as it will not be conducive to solve either problem.

4. STRATEGIES FOR CIVIL REGISTRATION

4.1 THE LOGISTICS AND ECONOMICS OF CIVIL REGISTRATION

The headline data for civil registration are shown in this first picture.

SUDAN: HEADLINE DATA FOR CIVIL REGISTRATION INFRASTRUCTURE

- Crude birth rate 36/1000
- Crude death rate 11/1000
- Vital events (birth and death only) 47/1000, i.e. 1.8 million/annually
- Rural population: 60% (20.4m); number of vital events 1 million/annually
- Number of <u>rural</u> registration offices needed within 5KM-walking distance: 23,000
- Number of vital events/<u>rural</u> office/year: 43, i.e. **less than 1 per work week**

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As cited in the previous chapter, the civil registration task at hand in Sudan is first and foremost to put in place a system that delivers <u>continuous, permanent, compulsory and universal</u> registration of vital events. Unless countries could afford to finance a permanent, never-ending mass registration campaign, which no country can, the mass campaign is a futile effort when the day the campaign is stopped or has moved on not all new occurring vital events could be registered in an existing system that can serve all citizens in an affordable way—affordable for government and citizen.

The picture shows the typical "Catch-22" situation for Sudan (and many more African countries): How could a civil registration service be practical and economically feasible—when <u>all</u> vital events are registered—if the average rural office within 5 km reach of every family would have <u>just one</u> vital event to register in a week?

Historians of civil registration know that in Europe, both in England and in France, registration of births, deaths and marriages started in churches.[14] In the early stages of civil registration the church, having its own interest in keeping records, were often less than an hour's walk away for most, and if not the clergy would be doing their own "mobile registration" by home visits. Churches were the answer to the catch-22. But churches lost their "official" registration role when states no longer were satisfied with the quality of registration, other religions than the state or "official" religion needed inclusion as well and flaws in identity registration affected more and more court cases about property and contracts.

Many countries, including Sudan, have chosen for "inter-operability" to solve the "office workload versus client proximity" quandary: ask another organization to do the task. It is not much different from the way Coca Cola reaches the consumer. Local governments can do for civil registration what the greengrocer and supermarket can do for Coca Cola. One of the problems with local government is that the civil registration function is by nature a standardized, national function and in developing countries local governments will show a whole quality spectrum of service delivery—from excellent to very poor. Coca Cola can still have a good degree of faith that the product reaches customers as a uniform drink, in a uniform bottle or can, with a uniform logo. The central civil registration office cannot be assured of the same uniformity delivered by local government. Another problem is the

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[14] See for example: Szreter, Simon, *The right of registration: Development, Identity Registration, and Social Security—a Historical Perspective,* **World Development,** Vol. 35, No 1, pp. 67-86 (for England), and Noiriel, Gerard, *The Identification of the Citizen: The Birth of Republican Civil Status in France*, in Caplan, Jane et al., **Documenting Individual Identity,** The Development of State Practices in the Modern World, Princeton and Oxford 2001, pp. 28-48.

"compulsory" aspect of civil registration and the passivity of local government service delivery. Many people don't find civil registration worth their while, and when government doesn't come to them (the idea of a mass registration) they won't avail of the service.

Besides the local government channel, the health sector is a partner in the delivery of civil registration services. For the vital events of births and deaths the involvement of the health sector is in some way like the church involvement in the early days of civil registration. Sudan has already for a long time (since, at least, 1929) involved the health sector, and there certainly is much to say for a substantial role of the health people in vital event notification or registration. While hospitals may not be within a 5 km distance for all people, midwives, traditional birth attendants and community health workers may well be.

Our recommendation is to indeed partner with the health sector, because of its proximity to the occurrence of vital events (which is superior to local government), as well as for two other reasons. It is a standard procedure for health facilities and health personnel in extramural work (e.g. vaccinations) to keep medical records. There is an overlap in data the health sector collects and the data the civil registration service requires. Modern, efficient government attempts to work by the principle "tell us once": to not ask the same information from people over and over again. And there is third reason: there is a growing realization in the health sector that data from patients need to become accessible centrally to manage public health services, i.e. there is the realization that computerized data processing is needed.

....PAPER

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The latter reason—digital data collection and data sharing within the health sector—is what is equally needed in modern civil registration. Besides the above office workload versus client proximity problem, the use of paper in civil registration is another key problem heavily impacting the cost-efficiency, accuracy and timeliness of civil registration service delivery and vital statistics production. The many problems of paper-based civil registration systems are shown in the pictures.

The answer to the paper problems is digitization of the civil registration function, and the use of electronic transmission to achieve real-time updates of the system and the ability to share information between civil registration offices and other users of data, in a secure way, with a maximum of protection of data.

PAPER: WHAT IF OBAMA HAD BEEN REGISTERED HERE?

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PAPER: WHAT IS MEANS

- Hard to stock and replenish, need for office space (a 100 years for a birth record..)
- Records hard to keep
- Prone to erroneous data entry (hard to control)
- Hard to share and consolidate
- Hard to retrieve individual records
- Hard to use for statistical purposes
- While people migrate, records stay put
- Hard to audit office performance, and take corrective action
- Office cost limits outreach civil registration service
- High operational cost effectively borne by citizens

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The "de-materialization" of the civil registration function, whereby the use of paper is reduced to the certificates issued, and the registration (and register) is understood to be more important than the certificate or extract of the register, then allows to reduce the number of civil registration points (where certificates/extracts can be issued) significantly so that offices will have substantial staff numbers which can perform specialized tasks, can be trained to be competent registrars, and economies of scale are achieved to reduce office cost. How this would work is shown in the diagram below. The number of regional civil registration offices required depends on the travel time to such an office. The "civil registration agents" (physicians, health workers, midwives, traditional birth attendants, or other when there is no health staff), who use mobile phones for vital event notification, need to be able to reach the office within reasonable time once a month or once a fortnight. This way of working has been introduced in Uganda ("Mobile-VRS").[15] The above organizational design does not show hospitals and smaller health facilities, and it is especially geared towards the organization of the civil registration function in rural areas. In Uganda hospitals are authorized and equipped to issue birth- and death certificates, and they are being brought online through the Internet. The largest hospital, Mulago in Kampala, is on-line.

This organizational design of the civil registration function allows the centre to have direct line control over the function at lower levels, It is

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[15] Cf. http://www.mobilevrs.co.ug/home.php

based on the assumption of an, in principle, de-concentrated service of government.
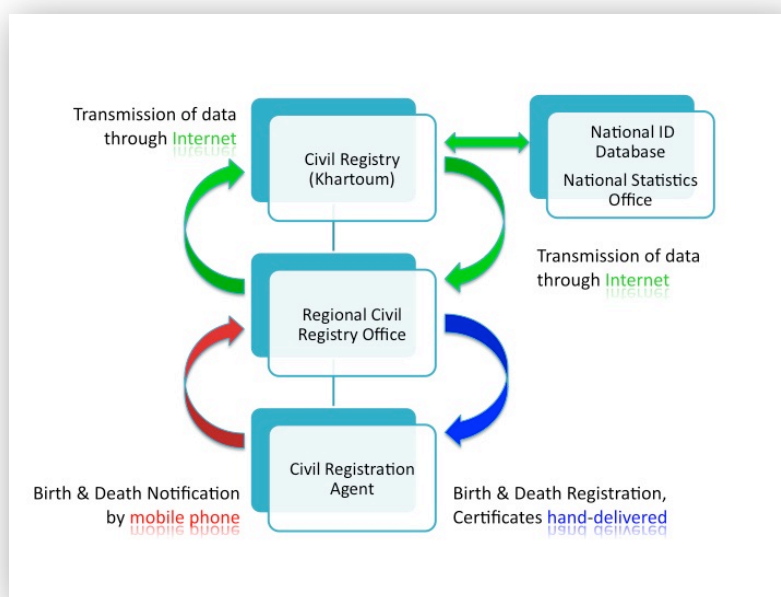
4.2 THE FOUR I-STRATEGIES TOWARDS UNIVERSAL REGISTRATION

The use of information and communication technology ("ICT") is the first of four core "i-Strategies" (see picture next page).

What the **first "i-Strategy",** the ICT strategy, does to paper-based systems is shown in the picture below. It does away with virtually all downsides of paper-based systems. And it can provide an answer to counterfeit identity documents that are becoming a very common alternative to official documents in the same way as expensive drugs or branded articles such as designer ladies bags will be copied to become an affordable alternative for people who cannot afford the "real thing". When the emphasis is <u>on the register and the registration</u>, and <u>on verification of identity papers</u> with the information held in the register—rather than on "tamperproof" identity papers—the possibilities for fraud will be reduced.

THE FIRST I-WORD: ICT

- ~~Hard~~ No need to stock and replenish, need for office space <u>only at regional level (much fewer offices)</u>
- Records ~~hard~~ easy to keep
- ~~Prone to erroneous data entry (hard to control)~~ Controlled data entry
- ~~Hard~~ Easy to share and consolidate
- ~~Hard~~ Easy to retrieve individual records
- ~~Hard~~ Easy to access for statistical purposes
- While people migrate, records ~~stay put,~~ are accessible from anywhere
- ~~Hard~~ Easy to audit office performance, and take corrective action
- ~~Office cost limits outreach~~ All people reached by civil registration service
- ~~High~~ Low operational cost ~~effectively borne by citizens~~ can be largely borne by government

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The **second "i-Strategy"** is the one that deals with the linkages of the civil registration function with other government services that can support the civil registration function, working together as one.

We have spoken about the natural linkage with the health sector, which in Sudan has a long tradition. However, it is important that the Ministry of Interior and the Ministry of Health work "hand-in-glove" and that their arrangement is given a business-like format. The ministries need to formulize their collaboration, which could be in the form of a Memorandum of Understanding,[16] and financial arrangements need to be agreed which are commensurate to the services ministries deliver to one another. While the law prescribes a role to the health sector, it

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[16] An example of this is a Memorandum of Understanding between the tow ministries in Namibia.

would be helpful in regulations or a Memorandum of Understanding to spell out business-like modalities.

In Uganda the Uganda Registration Services Bureau partners with Uganda Telecom Ltd., in a public-private partnership for the mobile phones used for notification but also for the data cables that carry the Internet traffic. This is part of UTL's corporate responsibility work and is provided for free.[17]

THE 2ND I-WORD: INTER-OPERABILITY

1. <u>Health</u>, given its role in people's birth and death. The accuracy and cost-efficiency of establishing a new person's identity at birth is 2nd to none
2. <u>National ID</u>, from competing services to an integrated government service
3. <u>Social protection</u>, which provides the entitlements targeting people who are the least likely to be registered

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Sudan is exceptional in the sense that it has now (and had since 2001) one law that puts civil registration and national ID together. This is an appropriate appreciation of the fact that the national ID is not very different from a birth certificate. The birth certificate is known as the main "breeder document" for other identity documents, including the national ID, a passport, a driving license or a voter ID. This integration of civil registration and IDs—common in developed countries—thus puts Sudan at the cutting edge of identity management, as are countries in Asia like Thailand and Malaysia, or Peru and Chile in Latin America.[18]

We have discussed that *incentives* are playing an important role, and the absence of them are probably the single-most important reason why so many people are not registered and do not register their offspring. But a silent revolution is happening, and many countries

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[17] Cf. note 15.
[18] For examples Chile and Peru see Inter-American Development Bank, Harbitz, Mia at al., **Democratic Governance, Citizenship, and Legal Identity, Linking Theoretical Discussion and Operational Reality**, Working Paper, Washington, 2009.

introduce "social safety nets".[19] This can be another government service providing an opportunity for civil registration to "piggy-back".

Inter-operability, for it to be not just a slogan, requires selectivity and serious, formal partnership for the delivery of the "civil registration and national ID product" for which the Ministry of Interior is the primary responsible and accountable actor. This selectivity applies to partners that are "co-producers" of the product. Other partners can play a role in awareness raising, or—in a responsible way—creating demand, or lowering thresholds. The Ministry of Education is a customer for a good civil registration product: clarity about the age of students, and issuing certificates and diplomas to students with an established identity. At the same time schools and schoolteachers have an enviable footprint across the country and an important role in pushing the educational attainment in the country. The schools are a good place to teach child rights, and schoolteachers can be both advocates of universal registration and notifiers of vital events. Similarly, the Family and Child Protection Units of the Ministry of Interior and the State and National Councils of Child Welfare of the Ministry of Social Welfare have an important advocacy role to play, as applies to international NGOs, UNHCR and UNICEF.

The **third "i-Strategy"** is about registration incentives. The provision of social benefits, for example child benefits, can be a powerful incentive for people to register, while the implementation of social transfer systems heavily depends on reliable identification of the beneficiaries. This is mentioned as one of the most important reasons in India for the national ID system (which is also integrated with the civil registration system, although after a political battle had been fought). Reportedly such social programs cost India about $60 billion annually. At the cost of $2 per ID and 1.2 billion Indian people, the cost of the ID system is just 4 per cent of the social programs budget in a single year, and savings in better targeting and reduced fraud within years could easily be greater than the cost of the national ID system.[20]

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[19] Cf. University of Manchester, Brooks World Poverty Institute, Barrientos, Armando et al., *Social Protection for the Poor and Poorest in Developing Countries: Reflections on a Quiet Revolution*, Working Paper 30, Manchester 2008.
[20] Cf. footnote 7.

The 3ʀᴅ I-Word: Incentives ᴛʜʀᴏᴜɢʜ Social Protection Programs

There is a two-way relationship:

- For allocation of social benefits and services to target beneficiaries reliable identity systems are essential
- The incentive for potential beneficiaries to register their identity is strong when there is a tangible return

In Sudan, e.g.: Zakat (زكاة), Martyrs' Fund

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There are simpler and less costly incentives possible to encourage birth registration. Mauritius gives a one-off child voucher of about $7 worth for the registration of a birth, and has universal birth registration.[21] There are similar programs that may be paid for by the private sector. In the Netherlands there used to be a system of delivering a package with gifts to mothers having given birth, typically baby-care or mother-care products, paid for by commercial companies.

While incentives for the "customers" of the registration service are important, the incentives for civil registration agents (notifiers of vital events) and the civil registration service at large should not be forgotten. In many places civil registration does not function because civil registrars are not paid, or paid too little. This not only leads to motivational issues but it also leads to informal (illegal) fees and fraud as an alternative source of income for registrars.

The **fourth i-Strategy** concerns international collaboration. Sudan can and should learn from good practice elsewhere, and countries in the region and elsewhere have relevant know-how. Uganda has been mentioned as one of the countries where the use of mobile phones and the digital hook-up of hospitals can be seen, and also the approach used for a large $60m social transfer project (funded by UK Aid and Irish Aid with support from UNICEF) linked to civil registration.

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[21] Cf. United Nations, Department of Economic and Social Affairs, Statistics Division, **Status of Civil Registration and Vital Statistics in the SADC Region,** Technical Report, New York 2010, p. 35.

THE 4TH I-WORD:
INTERNATIONAL COLLABORATION

- Study visits, focusing on the other i-words
  - Mobile phone applications
  - Health link
  - Social transfer programs
- Seeking collaboration with compatible successful practice countries
  - Pakistan
  - Malaysia
  - India
  - South Africa
  - Rwanda
- AU Ministerial Process, ASSD
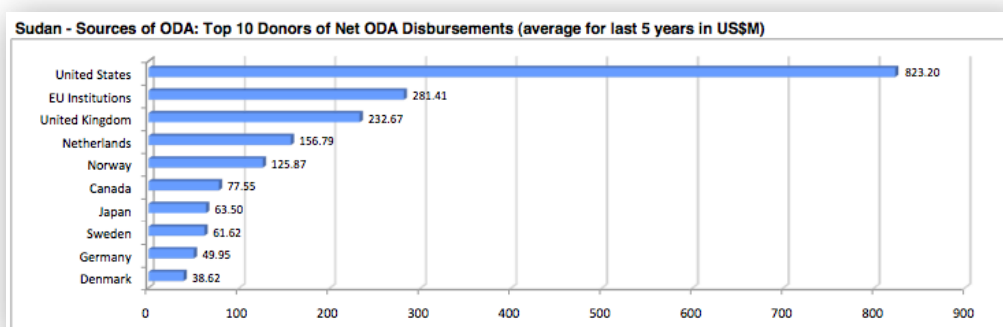 - Meeting in Durban, September 2012

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Sudan is already working with NADRA from Pakistan, which has won a competitive tender to deliver Nigeria's new national ID. Malaysia is a country that has a cutting-edge national ID system, and many commercial companies with relevant know-how, working in other African countries, e.g. Tanzania and Egypt. India, Pakistan, Malaysia, Thailand, Peru, Chile, Uruguay are countries where ID-civil registration integration can be seen in practice. Bangladesh has experience with a mass registration exercise, while Indonesia is at the start of the rollout of its new "eID". Rwanda and Ghana are countries having accomplished strong improvement in their civil registration coverage.

The ongoing continental process led by the African Union for Ministers responsible for Civil Registration and the ASSD meetings provide a regular platform for cross-country exchanges and learning, while the African Centre of Statistics and the UN Economic Commission for Africa provide continuous support.

Sudan is among the countries with the largest amounts of net official aid, receiving about $2 billion annually, or close to $50 per capita per year. If we take India's example of $2 per capita for the national ID, and add 150% for diseconomies of scale and logistics in Sudan the provision of legal identity to all Sudanese would just amount to 10% of the amount of one year of net aid disbursements. We believe that the international aid community has an important stake in that happening in Sudan, and are confident that a quality proposal would receive broad-based support. Sudan's major donors (over the period 2005-2009 are shown in the diagram below. They are without exception interested in programs that enhance good governance, and also in the reduction of the consequences of weak civil registration systems in

terms of documentary fraud, illegal migration, trafficking, child labor etc.

Sudan - Sources of ODA: Top 10 Donors of Net ODA Disbursements (average for last 5 years in US$M)

Country	Value
United States	823.20
EU Institutions	281.41
United Kingdom	232.67
Netherlands	156.79
Norway	125.87
Canada	77.55
Japan	63.50
Sweden	61.62
Germany	49.95
Denmark	38.62

Source: Cf. *http://www.aidflows.org/* (OECD, DAC)

All of the above strategies are meant to build a civil registration system fit for purpose. This system will bring the service close to the people at affordable cost for them and for the government. Putting in place this system will be an answer to the continuous, permanent, compulsory and universal registration of vital events required, but it will start with the new vital events, not the old ones. In order to deal with the latter it is important to do first things first: making sure that the system is in place that will manage the new vital events. The new systems infrastructure may play a role in removing the backlog, but not before it has proven to work for a normal workload and service delivery.

These system changes will require ongoing law reform, and the drafting of rules and regulations. Massive training efforts will be needed. Some of the new systems elements may have to be tested first, and in selected cases the use of randomized control trial may be advisable. The civil registration service will have to approach its work as a business and conduct the required strategic and business planning. The central office will need to build an international section that can deal with a large and complex workload of international civil registration.

All these changes and the removal of the registration backlog will require substantial amounts of financial resources. But if sensible plans are put in front of the international donor community there will be much interest to lend support to the Government of Sudan.