



Zolberg Institute on Migration and Mobility



MISIÓN PERMANENTE DE COLOMBIA ANTE LA ONU



# Access to Documentation as a Pathway to Justice for Migrants

## Concept Note

September 4, 2024 10:00am-12:00pm EDT



Pathfinders for Peaceful, Just, and Inclusive Societies at New York University’s Center on International Cooperation, the Migration for Development and Equality (MIDEQ) Hub, Zolberg Institute on Migration and Mobility at The New School, the Permanent Mission to the UN of the Government of Canada, the Permanent Mission to the UN of the Government of Colombia, the United Nations Development Programme (UNDP), and the UN Refugee Agency (UNHCR) are delighted to invite you to an expert-level discussion entitled *Access to Documentation as a Pathway to Justice for Migrants*.

### Location and Registration

This hybrid event will take place at the Permanent Mission of Canada to the United Nations **between 10:00am and 12:00pm EDT on Wednesday, September 4th**. For those attending in-person, **there will be coffee and networking just prior to the event from 9:30-10:00am EDT**. To RSVP for this event, please [register here](#) before Friday, August 30th.

Please find information on accessibility & security at the Permanent Mission of Canada to the UN [here](#). Attendees are encouraged to email the Events team at [CNGNY-PRMNY-Events@international.gc.ca](mailto:CNGNY-PRMNY-Events@international.gc.ca) should they need any further accommodations.

### Context

Everyone has the right to be recognized as a person before the law, as enshrined in the Universal Declaration on Human Rights (Article 6), and International Covenant on Civil and Political Rights (Article 16). Several other international human rights instruments, including the Convention on the Rights of the Child also recognize a right to birth registration. **The importance of having a legal identity and being documented is reflected in the Sustainable Development Goals (SDGs)**, with Target 16.9 being “legal identity for all, including birth registration, by 2030”. Being registered at birth — and especially having a birth certificate or other document that can prove identity — can make a huge difference in a person’s life. A birth certificate is proof of legal identity and is the basis upon which children can establish a nationality, avoid the risk of statelessness and seek protection from violence and exploitation. It is [also often an enabler of access to the national systems](#) that ensure economic, political, and social inclusion. In

other words, **legal identity is a right itself, and it is a stepping stone to acquiring an array of rights and benefits.**

Although there have been significant efforts made by States over recent decades to improve access to documentation, [more than 1.1 billion people remain without official proof of identity](#) and official documentation in the world today. **Around half of this population are children**, and the majority reside in lower-income countries within Africa and South Asia. Living undocumented, under-documented, stateless, or without effective citizenship prevents untold millions from reaching their full human potential. Those who are undocumented are isolated from the legal and administrative frameworks that exist to protect their economic, political, and social rights, **exposing them to unfair or exploitative working conditions, abuse and exploitation, and unequal power dynamics** when it comes to land and property. They also face [obstacles to accessing key services](#), such as education, healthcare, social protection, and financial services. These individuals are often also without access to courts and police, tools needed to access justice and resolve justice problems. Thus they are left [vulnerable and without legal empowerment to access their full rights](#). This dynamic ultimately entrenches poverty, inequality, and other forms of injustice.

For those who **move across international borders**, establishing a legal identity and securing documentation can be even more challenging due to lost, damaged, or stolen documents or because the processes for determining their rights and entitlements in a country can be protracted. For those who have migrated irregularly, been displaced, or fled due to conflict, persecution or human rights abuse, proving their identity is not only a matter of having the right documentation — but of having the rights which this documentation affords. Other times, migrants may have the necessary documents, but they have not been translated or have since expired. Alternatively, they may require documents and certification from their country of origin which lacks the institutional capacity to provide it.

**Children are often collateral to challenges in documentation.** Irregular migrants or migrants without proof of legal identity may also experience serious challenges in establishing the legal identity of their children, either because parents are undocumented and/or may not want to avail themselves of the authorities or because children born to migrants do not receive the documentation needed to access services, especially education. This undermines [Objective 4](#) of the Global Compact for Safe, Orderly and Regular Migration (GCM), an intergovernmental agreement adopted in 2018 by Member States at the United Nations General Assembly, to “ensure that all migrants have proof of legal identity and adequate documentation”. When documentation has an **intergenerational impact** on access to universal rights and social benefits, or the mechanisms by which to assure them, we create an enabling environment for cyclical injustice. On the other hand, improving access to documentation and utilizing justice services to then ensure those rights and benefits can be a key enabler of achieving interdependent development goals across the global agenda.

## About this event

This event is co-convened by [Pathfinders for Justice](#) at [New York University Center on International Cooperation](#), and [Zolberg Institute on Migration and Mobility at The New School](#) as part of the [Justice for Displaced Populations Initiative](#)<sup>1</sup> alongside [Migration for Development and Equality \(MIDEQ\) Hub](#)<sup>2</sup>. The event is co-sponsored by the Permanent Mission of Canada to the United Nations, the Permanent Mission

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<sup>1</sup> Justice for Displaced Populations aims to bring together actors in the humanitarian, development, and justice sectors to advance interdisciplinary collaboration in addressing displaced persons’ justice needs.

<sup>2</sup> The MIDEQ Hub undertakes research and impact intervention across 12 countries in the Global South with the aim of improving access to justice for migrants and other marginalized and/or vulnerable populations.

of Colombia to the United Nations, the United Nations Development Programme (UNDP), and the UN Refugee Agency (UNHCR).

The discussion will explore gaps and challenges in knowledge and practice on documentation as a pathway to justice for migrants, shed light on the [importance of collecting data on the justice needs of migrant populations](#), and identify ways to translate evidence into action by discussing the role that national and international actors can take to ensure access to documentation as a pathway to justice for migrants– and more generally. The event will provide participants with an opportunity to learn about the challenges vulnerable migrants and displaced populations face to obtain documentation on the one hand, and the implications of living without it on the other. Building from an understanding of the challenge, the discussion will also be solutions-oriented and foster an exchange of promising practices on addressing the global legal identity gap.

Following an initial presentation that overviews the key challenges of the legal identity gap, a panel of experts representing government, non-government, and multilateral organizations will reflect on the implications of documentation for policy and practice – including delivery of the SDGs and the Global Compacts for [Migration](#) and [Refugees](#) - and on how the global community can work together to ensure that all migrants and their children have a legal identity and associated documentation.

An open audience discussion will follow, aimed at exploring existing efforts to reduce the injustices faced by migrants through the provision of documentation. Key topics will include the importance of data and evidence on access to justice in contexts of migration, unpacking the ways in which a lack of documentation acts as a barrier to justice, the promise of existing initiatives to increase the documentation of migrants and their families, and reflections on how to coordinate and maximize efforts between international and national actors when it comes to ensuring that people on the move are documented.

In particular, the discussion will consider the following questions:

#### **Understanding the challenges**

- In what ways does a lack of documentation contribute to the injustices experienced by migrants and displaced populations moving between the countries?
- What are the particular challenges facing children in migrant households who lack access to official documentation and associated rights?

#### **Looking towards solutions**

- How can countries develop civil registration systems that are inclusive of migrant populations, including children born to migrant parents?
  - What is needed of the international community to support these efforts?
- What role can community-based justice actors and legal empowerment play in assisting and empowering individuals and communities suffering from a lack of documentation of citizenship or other forms of proof of legal identity?
  - How can these efforts be taken to scale?
- What efforts have proven successful in addressing the legal identity gap? What set of contextual factors (political, economic, institutional) best explain these successes? What lessons can be taken from these examples and applied elsewhere?

## Background Materials

- [Shrinking the Justice Gap: Rethinking Access to Justice for Migrants in the Global South](#)
- [Using Justice Chain Analysis to unlock access to justice for migrants in the Global South](#)
- [“No papers, no rights”: Access to documentation as a pathway to justice for migrants in the Global South](#)
- [Identification in the Context of Forced Displacement](#)
- [Enhancing Access to Legal Identity for Migrants: IOM’s Commitment to ‘Legal Identity for All’](#)
- [Compendium of Good Practices in Enabling Access to Legal Identity for Undocumented Migrants](#)
- [A Community-Based Practitioner’s Guide: Documenting Citizenship and Other Forms of Legal Identity](#)
- [Justice for All: Report of the Task Force on Justice](#)
- [Colombia’s Support for Venezuelan Migrants and Refugees](#)