

**ERC Starting Grant 2020
Research proposal [Part B1]**

Legal Identity for All?

CitizenGap

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Duration: 60 months

Although we often think of undocumented persons as migrants or non-citizens, about one in seven people across the globe lack documents such as birth certificates, ID cards or passports to prove their legal identity, and thus their status as citizens in their own country. This gap between citizens with and without state-recognized documents is just as consequential as the distinction between citizens and non-citizens.

Existing approaches portray the citizenship gap – that is the difference between legal status and the ability of citizens to document their claim to this status – as the apolitical by-product of deficiencies in governance. The proposed research project – CitizenGap – aims to change how scholars and policy-makers think about achieving one of the key targets of the United Nations’ Sustainable Development Goals “By 2030, provide legal identity for all, including birth registration” by developing a novel political understanding.

The project pursues two main questions: *(1) How and why do states invest in civil registration? (2) How and why do citizens decide to obtain documents?* To understand why millions of citizens are undocumented, it is crucial to remember that *citizenship is not only a legal status, but first and foremost a political relationship between states and the populations they govern.* CitizenGap advances a strategic theory that seriously considers the incentives of states and citizens in the politics of civil registration. Empirically, the project contributes a comprehensive, cross-national measure that captures the number and characteristics of undocumented citizens, including those at risk of having their citizenship status questioned. The project analyzes the origins and nature of the citizenship gap with a mixed methods design, combining demographic and spatial (GIS) datasets with fieldwork, archival sources, interviews and focus groups.

Section a: Extended synopsis of the scientific proposal

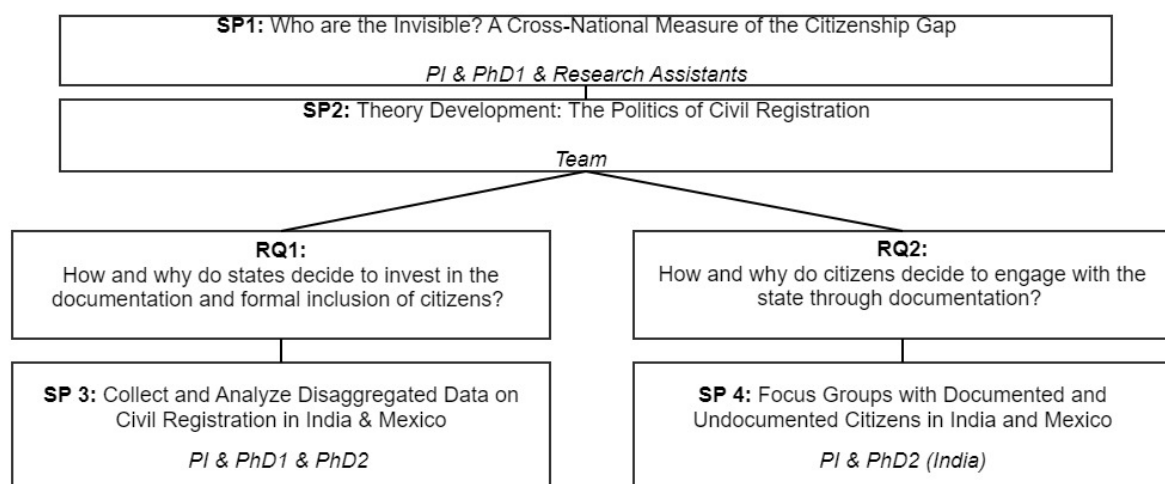
Citizenship grants access to the rights enjoyed by all members of the political community of a given state. To claim these rights, citizens must be able to provide evidence of membership based on birth place and/or parentage. Yet, an estimated one billion people lack official documents such as birth certificates, ID cards or passports that prove their legal identity (World Bank 2018a). Although we often think of undocumented persons as migrants or non-citizens, globally one in seven people are “born and die without leaving a trace in any legal record” (Setel et al. 2007: 1569). Tying “the right to have rights” (Arendt 1968) to citizenship dramatically raises the stakes of documentation, since the absence of state-recognized documents brands individuals as non-citizens or outsiders. For millions of people, the threat to their fundamental rights derives not from their legal status, but from their inability to demonstrate this status. This gap between citizens with and without state-recognized documents is just as consequential as the distinction between citizens and non-citizens. What accounts for the *citizenship gap* – the difference between legal status and the ability of citizens to document their claim to this status?

The Sustainable Development Goals – adopted by UN member states in 2015 – emphasize the commitment to “legal identity for all, including birth registration” (SDG Target 16.9). Citizens with official documents can better protect their rights in interactions with the state and other citizens (Szreter 2007; Hunter and Brill 2016; Hunter 2018). States, in turn, need information about populations to govern effectively (Brambor et al. 2019, Lee and Zhang 2017, Nistotskaya and D’Arcy 2018, Scott 1998). Birth registration – the vital first step for the protection of legal identity – has been the focus of international efforts, but nearly one-third of the global population of children under the age of five is not registered (UNICEF 2017). If citizens as well as the state have an interest in civil registration and documentation, why isn’t it happening?

The extant research portrays the citizenship gap as the apolitical by-product of deficiencies in governance and as the result of state weakness. The proposed research project – CitizenGap – aims to change how we think about civil registration by advancing and testing a new *strategic theory* that seriously considers the incentives of both states and citizens in the politics of civil registration. Extant work generally assumes that when states are unable to effectively distinguish between citizens and non-citizens, this is simply due to their inability to gather and process demographic data. This technocratic perspective cannot explain why the number of undocumented citizens varies among states of similar capacity, or why within the same country some marginalized groups are more likely to possess documents than others (e.g. Bhatia et al. 2017, UNICEF 2013). To understand these empirical patterns, it is crucial to remember that citizenship is not only a legal status, but first and foremost a *political relationship between states and the populations they govern*. From the perspective of states, some societal groups make for more “attractive” citizens because they provide political support or resources; they are thus prioritized for inclusion in the political community. The proposed project will develop a novel, political understanding of the citizenship gap – one able to explain how and why the numbers and characteristics of undocumented citizens vary within and across countries, and how access to legal identity documents shapes inclusion in, or exclusion from, the political community.

With this aim, CitizenGap pursues two main questions: (1) *How and why do states invest in civil registration?* (2) *How and why do citizens decide to obtain documents?* These questions translate into CitizenGap’s four subprojects and its core objectives (summarized in Figure 1):

Figure 1: Research Questions and Subprojects



Objectives and Subprojects

The project’s mixed-methods approach combines qualitative information from interviews, archival sources, and focus groups with quantitative subnational, spatial and demographic data. The project will empirically examine the nature of the citizenship gap across countries (SP1), and break new ground through its in-depth analysis of the origins of uneven civil registration in Mexico and India (SP3 & SP4). Both countries are democracies with comparatively high statistical and information capacity (World Bank 2018b, Brambor et al. 2019). Although conventional approaches would thus lead us to expect comprehensive civil registration, there is significant societal and geographic variation in access to legal identity documents. In Mexico, the percentage of infants registered within the first year of their lives varies from 10 percent in some municipalities to almost 100 percent in others (UNICEF 2012). Across Indian districts, the percentage of children registered by the time they turn five ranges from 12 to 98 percent (IIPS 2007). Variation across societal groups is also substantial. In Mexico, the state’s neglect of poor, indigenous citizens in Chiapas – which has among the lowest rates of birth registration – contributed to the Zapatista uprising. In India the rollout of the National Register of Citizens threatened to render millions who had lived in the state of Assam all their lives stateless, because their identity documents were deemed insufficient as proof of citizenship. The substantive importance of India and Mexico as large democracies, and the PI’s country expertise further motivate the case selection (Harbers 2019, Harbers et al. 2019). The research design ensures the integration of methods across subprojects (Seawright 2016) to achieve the four objectives of CitizenGap:

1. SP1 develops a comprehensive, cross-national measure that captures the number and characteristics of undocumented citizens, including those at risk of having their citizenship status questioned.
2. SP2 develops a strategic theory that conceptualizes citizenship as a political relationship between states and the populations they govern to explain the number and characteristics of undocumented citizens within and across countries.
3. SP3 analyzes how and why states invest in registering societal groups by analyzing patterns of civil registration in India and Mexico.
4. SP4 conducts focus groups in India and Mexico to understand how and when citizens decide to obtain documents, examining how state strategies toward societal groups condition the incentives for citizens.

Subproject 1: A Cross-National Measure of the Citizenship Gap

The analytical goal of SP1 is to map the extent and nature of the citizenship gap across countries. The team will develop a comparative measure that captures the strength of societal groups’ claims to legal identity and citizenship. SP1 shifts the emphasis from the absolute number of those without identity documents per country to the questions of which groups in society are left out, and on what basis they are excluded. While the current estimate of one billion undocumented citizens is daunting (World Bank 2018a), the number of people who have been registered, but are nevertheless vulnerable to exclusion because of inadequate documents, is likely much larger. Crucially, the lack of legal identity can be *absolute* – when the birth was never registered and legal documents were never issued – or *relative*, when the birth was registered but no documents were issued, when issued documents were lost and cannot be replaced, or when personal data in the records is incorrect because names or places are misspelled, or wrong (Harbitz and Tamargo 2009). In both instances, the citizen’s legal identity and therefore citizenship status is undocumented. The project breaks empirical ground by creating a comprehensive, cross-national measure that captures the absolute as well as the relative lack of legal identity.

SP1 re-analyzes individual-level survey data on ID coverage and birth registration (e.g. ID4D-Findex Survey, UNICEF-MICS, DHS) to measure *the strength of societal groups’ claims to legal identity*. SP1 will mine extant surveys to capture proxies for the relative lack of legal identity across societal groups, such as the absence of a hardcopy of the birth certificate, and delays in registration. Delayed registration is associated with incomplete, incorrect, and unreliable identity information (AbouZahr et al 2015). SP1 will leverage cutting-edge techniques for the analysis of national and international demographic data (i.e. census, population surveys) to draw inferences about who is left out and to gauge for which populations records are likely incomplete or incorrect. Through its systematic investigation of the nature of the citizenship gap across countries, SP1 speaks directly to the SDG agenda. The empirical measure captures not only the number and characteristics of undocumented citizens, but also those at risk of having their legal identity questioned. This is crucial to the Sustainable Development Goal agenda to “leave no one behind”.

Subproject 2: Theory Development: The Politics of Civil Registration

SP 2 will develop a novel theory centered on the political importance of legal identity documents. Approaches focused on state weakness have portrayed the citizenship gap as the a-political by-product of deficiencies in governance. Across most of the world, the state's reach over territory and society is incomplete (Sadiq 2009, Risse-Kappen 2011). It is crucial to remember that states in the developing world command resources to invest in governing their societies, but also face the need to ration (Steinberg 2017). *Where states invest their limited resources, and which regions and populations they neglect*, can tell us much about their strategic motivations. Institutions are the outcomes of bargaining and conflict between the state and societal actors (Skocpol 1985; Tilly 1992; Levi 1988). In other words, how the *costs* of documentation for citizens and the state interact with the *incentives* for registration can account for the number and characteristics of undocumented citizens.

The project's approach conceptualizes civil registration not just as a means for the state to gather information about its population, but as *the creation of commitment by the state*. By recognizing a claim to citizenship, the state certifies the citizen's status as a bearer of rights. It is a *political* decision to invest in civil registration. Crucially, the costs come in two forms:

- 1) **Direct costs** refer to the infrastructure required for civil registration, such as a continuous "administrative system to record occurrence and characteristics of major vital events (notably, births and deaths)" immediately or shortly after they occur (AbouZahr et al 2015: 1373). The direct costs of civil registration are largely determined by physical characteristics, such as population density and rough terrain (e.g. Herbst 2000, Fearon and Laitin 2003), and societal characteristics, such as ethnic and linguistic diversity (e.g. Alesina et al 1999).
- 2) **Inclusion costs** refer to the commitments incurred by the state when it documents its citizens. These costs depend on the rights and duties citizenship entails in the respective country. Inclusion costs vary across societal groups based on how they are expected to exercise their citizenship. In democracies, citizenship includes political rights such as the franchise, thus raising the question of whether and how the de facto expansion of the electorate will alter the balance of power. Who will these citizens vote for if allowed to participate in elections? Inclusion costs also include claims to the collective goods provided by the state, such as welfare provisions. This raises the question whether these citizens will receive more benefits than they contribute in taxes. States do not know the inclusion costs for individual citizens, but they can make educated guesses based on their global knowledge about societal groups.

While the extant literature in development studies and public health has emphasized the *direct costs* of investing in civil registration (e.g. Oomman et al 2013), it has overlooked the *inclusion costs* that accrue to states through documentation. Yet, direct costs are potentially dwarfed by inclusion costs, especially in an era where there are powerful international norms for universal suffrage and equal treatment of citizens under the law. While it is challenging and potentially damaging to legally exclude citizens from voting, or from enjoying rights to which they are entitled under the law, these norms do not apply when a person's legal status as a citizen is in doubt. *States have an incentive to create that doubt for societal groups deemed "unattractive citizens"*.

The theory suggests that states invest in civil registration to strategically include or exclude societal groups based on how "attractive" these groups are as citizens. To understand why countries fail to adequately invest in civil registration, we need to place inclusion costs at the center of our analysis. Doing so allows us *to explain not just the state's desire to know, but also to explain under which conditions the state prefers to forgo detailed and relevant information*. **Strategic ignorance** describes a situation where segments of the population do not appear in civil registries, or where identity information about them is incorrect or incomplete, not because the state is unable to register citizens, but because the general information the state has about the group – for instance from periodic surveys or the census – suggests that collecting more detailed information through investments in civil registration is unattractive. Names are misspelled, incorrectly transliterated or dates and places of birth are wrong, hampering the accurate identification of citizens. Incorrect identity information then makes it difficult, if not impossible, for citizens to retrieve records or to replace lost documents. Even if they register, their ability to prove their legal identity and status as a citizen remains in doubt. Strategic ignorance is distinct from low capacity in the sense that the state is informed enough to know that it does not want to know more.

Emphasizing the political rather than the legal nature of citizenship also changes how we think about citizens' incentives for civil registration. Existing research has been unable to account for citizens' apparent

lack of interest. Even when information about civil registration is widely available, registration rates have often remained stubbornly low (e.g. UNICEF 2013, Pelowski et al. 2015). The conventional wisdom has been that direct costs, such as travel time, distance to registration centers and fees prevent marginalized groups from obtaining documents (World Bank 2016). CitizenGap's theory highlights the importance of recognizing the state's political motivation for investing in the registration of specific societal groups in the first place.

We argue that a policy of strategic ignorance by the state means that the expected utility of documents for citizens who belong to the group is low. Citizens – like states – are strategic actors who make informed decisions in which they weigh the costs and benefits associated with seeking documents for themselves or their children (Pelowski et al. 2015, Harbers 2019). Far from being universal, the expected utility of documents for accessing rights varies across societal groups. The paradox is that “unattractive citizens” are those who would benefit most from the inclusion expected to come with legal identity documents. Yet, they are the least likely to obtain inclusion through registration. For the recognition of their claims, citizens are at the mercy of the state, which compiles and controls the documents that grant access. If states relate to a societal group with strategic ignorance, then members of this group – even if they register – are less likely to end up with correct and complete identity documents that actually constitute an “empowering resource” (Szreter and Breckenridge 2012: 22). To the extent that records for a societal group are incomplete or incorrect, this allows states to question or deny citizenship for members of the group. Since documents are less likely to have the expected value, citizens have fewer incentives to obtain them.

Subproject 3: Collect and Analyze Disaggregated Data on Civil Registration in India & Mexico

The theory understands civil registration as a strategy aimed at including or excluding societal groups, and highlights the direct and inclusion costs of registration as important considerations for empirical research. It conceptualizes societal groups based on shared group characteristics (e.g. ethnicity, religion, migration background) and shared place of residence. As part of SP3, the team will investigate the implications of this theory in India and Mexico. The outcome of interest is the coverage and quality of identity documents across societal groups in different parts of the country. The research design draws on a subnational comparative approach, which holds national factors such as aggregate state capacity and citizenship regime constant, while examining variation on theoretically relevant *within-country* variables (Snyder 2001, Giraudy et al. 2019).

SP3 will compile geo-referenced datasets on India and Mexico. The primary spatial units of analysis are subnational jurisdictions (Giraudy et al. 2019), and data will be collected for local units (municipalities in Mexico, districts in India, or smaller units where available). Data on the dependent variable will be obtained from household and population surveys as well as from vital statistics and voter rolls. The independent variables of interest relate to the direct and inclusion costs of civil registration. Direct costs vary geographically depending on how challenging it is to develop administrative infrastructure. Data on physical and societal factors (e.g. altitude, rough terrain, population density), and on civil registration centers are available from national and international statistical agencies. Measuring inclusion costs will require collecting and coding subnational data on the social needs, relationships to the state, and political preferences of societal groups. The analysis of archival sources on the functioning of the system of civil registration will ensure that the quantitative analysis is historically grounded. To examine the theoretical mechanisms and understand how and why the quality of identity documents varies across societal groups, the research team will conduct interviews with political elites and state officials at different levels of government.

Subproject 4: Focus Groups with Documented and Undocumented Citizens in India and Mexico

SP4 examines the citizen perspective on civil registration. The theory predicts that the experiences of citizens with civil registration should vary across social groups in ways that are directly related to the state's incentives for including the group. Drawing on the data generated in SP3 to select societal groups with different levels of inclusion, SP4 will collect fresh data on how and why citizens obtain documents.

Focus groups are a powerful tool for studying attitudes and behaviors of marginalized groups. The emic data that focus groups generate sheds light not only on how citizens think about identity documents and civil registration, but also why they think and behave as they do (Cyr 2019). The focus groups will pursue the following questions: How do citizens understand civil registration? How do people decide whether or not to seek identity documents for themselves or their children? How do they perceive the value of documents? What are their experiences in using these documents in their daily lives? Understanding the utility of identity

documents for citizens is crucial to explaining their decisions on whether and when to register. The team will conduct 10 focus groups in each country. Focus groups participants will be drawn from marginalized groups that are similar on a range of characteristics, but vary in terms of access to identity documentation. Groups will be internally homogenous to ensure that participants feel comfortable sharing and discussing their experiences.

Impact and Dissemination

CitizenGap speaks to foundational issues in academic debates about citizenship, state-building and state-society relations. It promises to change how scholars and policy-makers think about achieving one of the key targets of the United Nations' Sustainable Development Goals: "By 2030, provide legal identity for all, including birth registration" (SDG Target 16.9).

- The project establishes the citizenship gap as a **field of social scientific research**, one that has direct and burning relevance to hundreds of millions of people around the world.
- The project advances a **new strategic theory of the citizenship gap** that conceptualizes citizenship as a political relationship between states and the populations they seek to govern and control.
- The project develops a **comparative measure** that goes beyond the idea of citizens being registered or not. Instead, it maps the strength of societal groups' claims to legal identity, and makes use of **innovative methods** that allow analyzing not only the number of undocumented citizens, but the **characteristics** of those whose legal identities and citizenship status are in jeopardy.
- This theory reveals the **previously overlooked role of strategic ignorance to account for the citizenship gap**. Strategic ignorance describes a situation where identity records for a societal group are incomplete or incorrect because available information suggests that including the group as citizens is unattractive for the state.
- The project analyzes the **origins and nature of the citizenship gap in India and Mexico** with a mixed methods design, combining original, demographic and spatial (GIS) datasets with fieldwork, archival sources, interviews and focus groups.

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