

BIRTH REGISTRATION RESEARCH

**A collection of three comparative reports
prepared for UNICEF by DLA Piper**

November 2015–August 2016

The views expressed in this Report do not necessarily represent the views of UNICEF, the United Nations or any of its affiliated organisations.



BIRTH REGISTRATION

A Comparative Report Prepared for UNICEF

November 2015



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PREFACE

Please note the following in relation to the research questionnaires:

1. The purpose of this report is to compare the legal frameworks governing birth registration in eleven jurisdictions. Birth registration is the process by which a child's birth is recorded in the civil register by the applicable government authority. It provides the first legal recognition of the child.
2. The questionnaires have been prepared by lawyers from the UK and other jurisdictions performing desk based research. We have endeavoured to make the questionnaires as comprehensive as possible, but they should not be regarded as exhaustive.
3. Every attempt has been made to access English versions of all relevant and up to date legislation. However, given the nature of desk based research, some legislation was not available in English (or at all) and some may be outdated, although it was not always clear when this was the case. Where possible we have attempted to provide hyperlink references to online versions of legislation or provided scanned copies as an appendix to the questionnaire.
4. For many jurisdictions, reports and resources may be several years old. Due to a lack of up to date resources, in some cases older resources have been cited and relied upon as representing current practice. We would recommend referring to footnotes before relying on information.
5. The lawyers preparing these questionnaires are not experts on civil registration law or on the law of the jurisdictions which they researched, but have applied their general research skills to prepare answers to the questions. Words such as 'child', 'registration', and 'certificate' may not always be used with the strict definition ascribed to them by that jurisdiction's legislation.
6. Eleven groups of lawyers from different jurisdictions have carried out the research presented in these questionnaires and may have taken slightly different approaches to answering the questions. The questions requiring an answer of 'Yes' or 'No' are there to provide an easy-to-read overview of each jurisdiction and cannot capture all the relevant information and qualifications. In light of this, we recommend that the answer to each question is read in full and in the context of the questionnaire as a whole.
7. The final section of the questionnaire deals with the requirement for birth registration in order to access services. Where the answer to a particular question is 'Yes', we have made every attempt to provide the relevant legislative provision or have referred to the fuller narrative explanation below. Where the answer is 'No', we have either provided the legislative provision (if relevant) or left the space blank. Where the answer is 'Unclear', we have left the space blank.
8. The scope of the questionnaires is limited to the domestic legal framework in relation to birth registration for each of the relevant jurisdictions. A small number of questionnaires refer to specific international treaty obligations relating to child rights or birth registration in order to provide a fuller picture of the situation within that jurisdiction. However, the absence of a reference to an international treaty does not imply that a country is not a party to it or that the treaty itself is not relevant to the issue of birth registration as a matter of international law.
9. The questionnaires focus on the registration of births occurring within the relevant jurisdiction. A number of questionnaires also refer to the registration of children born outside the jurisdiction to

citizens of that country, i.e. consular birth registration, but this information has not been included in every questionnaire.

10. The legal definitions of citizenship and nationality may not be identical in each jurisdiction, and there are some jurisdictions which do not distinguish clearly between the two concepts. In a number of questionnaires we have referred to both citizenship and nationality in order to provide a more comprehensive picture of the legal framework in relation to birth registration. Where possible, we have tried to use the particular terminology that appears in the relevant jurisdiction's legislation.
11. We would recommend that more exhaustive research is undertaken to verify particular information before reliance is placed on particular content for the purposes of publication or disclosure to third parties. This report may not be relied upon by any party other than UNICEF.
12. Where fees or fines have been quoted in US Dollars, the conversion was approximate and made at the time of writing the questionnaires using a commercial exchange rate, available at www.xe.com.

ANGOLA

QUESTIONNAIRE ON BIRTH REGISTRATION - ANGOLA

Key Points

- Births in Angola must be registered at the local Civil Registration Office for the location where the birth occurred within 30 days.
- Birth registration fees have been suspended by Presidential order until 2016.
- Birth registration is required to obtain a national identity card, but it is unclear whether it is possible to access other services without a birth certificate.

Name of official authority in charge of registering a child's birth:

Central Registry Office and Civil Registration Offices.

Where is the civil registry located in the government?

- ☒ (X) Ministry of Justice - Ministry of Justice and Human Rights
- ☐ () Ministry of Interior
- ☐ () Electoral Agency
- ☐ () Independent Entity
- ☐ () Other

Law: Decree Law 47678 – Civil Registry Code ("**Civil Registry Code**").¹

Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?

Jus Sanguinis: Article 9(2) of the Constitution of the Republic of Angola ("**Constitution**")² states that "*the child of a father or mother with Angolan nationality, born in Angola or abroad, shall be an Angolan citizen by origin*".

However, Article 9(3) of the Constitution states that "*a newborn child found in Angolan territory shall be presumed an Angolan citizen by origin*".

Is there any legal obligation to register children?

Yes (X) No ()

¹ Decree Law 47678 – Civil Registry Code.

² Constitution of the Republic of Angola, available at <http://www.comissaconstitucional.ao/pdfs/constituicao-da-republica-de-angola-versao-ingles.pdf>.

If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.

Articles 1 and 2 of the Civil Registry Code require that certain events must be registered at the Civil Registration Offices. These events include the birth of a child.

Does the child need to be registered within a certain amount of time from birth?

Yes (X) No ()

If yes, by when?

Article 119 of the Civil Registry Code provides that the birth must be registered within 30 days of the birth. This should be done at the Civil Registration Office for the place where the birth occurred.

Is a paper certificate issued as a result of the registration?

Yes (X) No ()

Different by region/area

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

Is there a separate fee for the issuance of a paper certificate?

Yes () No (X)

Different by region/area

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

Birth Registration Fee

Yes () No () Conditional (X)

If yes, amount in USD:

See explanation below.

If it's conditional, please provide reasons/cases for exemption.

The birth registration fee would be approximately USD 3.52.³ However, in accordance with Presidential Dispatch 80/13, 5 September⁴ and Executive Decree 309/13, 23 September,⁵ there is no birth registration fee for births registered between 2013 and 2016.

³ All conversions are approximate and were made at the time of writing the report using a commercial exchange rate, available at www.xe.com.

Are there fees for registering a birth after a certain period of time ("late registration" or "delayed registration")

Yes (X) No ()

If yes, amount in USD: (please see below)

For births registered within one year of the deadline, the fee is approximately USD 4.22.

For births registered more than one year after the deadline, the fee is approximately USD 7.03.

Requirements for Birth Registration (tick what applies):

Identification of Child's Father (X) His Nationality (X)

Identification of Child's Mother (X) Her Nationality (X)

Marital Status (X)

Are Stateless / Refugee Births Registered?

Yes (X) No ()

Articles 1 and 2 of the Civil Registry Code require all births to be registered at the Civil Registration Office for the place where the birth occurred.

Article 9(3) of the Constitution states that any newborn child found in Angolan territory shall be presumed an Angolan citizen by origin. In accordance with this constitutional provision, Article 14 of Law 1/05, 1 July⁶ provides that certain individuals born in Angola can apply for Angolan nationality. This includes individuals who do not have another nationality, individuals whose parents are stateless or of unknown nationality, and individuals whose parents are not known.

Are children of single parents registered?

Yes (X) No ()

Articles 1 and 2 of the Civil Registry Code require all births to be registered at the Civil Registration Office for the place where the birth occurred.

Are all children born in the territory registered?

Yes (X) No ()

Articles 1 and 2 of the Civil Registry Code require all births to be registered at the Civil Registration Office for the place where the birth occurred.

⁴ Presidential Dispatch 80/13, 5 September.

⁵ Executive Decree 309/13, 23 September.

⁶ Law 1/05, 1 July.

If no, please provide list of those not registered.

Not applicable.

Other Requirements (if none, put n/a)

Not applicable.

Registration System Set-up

Electronic Submission () Paper Submission (X) Both ()

Article 119 of the Civil Registry Code states that the birth must be declared orally. Therefore, we can infer that an oral / paper-based registration system is the only method available.

Location of registration facilities

Capital city Yes (X) No ()

Other cities Yes (X) No ()

Villages Yes (X) No ()

Other _____

Birth Registration is required for:

Access to education

Yes () No (X) Law _____

The Constitution provides for a general right to education. Article 79(1) of the Constitution states that the State shall promote access for all to literacy, education, culture and sport. However, in practice enrolment at educational institutions requires birth registration (see below).

Obtaining a primary school diploma

Yes (X) No () Law *Presidential Decree 16/11, 11 January.*

Article 24(1) of Presidential Decree 16/11, 11 January, also known as the General Education Subsystem Statute ("**Education Statute**"),⁷ states that submitting a birth registration certificate or a copy of the person's identity card is mandatory for primary education enrolment. Although only one of these documents is required for enrolment, it is not possible to acquire an identity card without birth registration. Thus, in practice, birth registration is a requirement.

Obtaining a secondary school diploma

Yes (X) No () Law *Presidential Decree 16/11, 11 January.*

⁷ Presidential Decree 16/11, 11 January.

Article 24(2) of the Education Statute states that, in relation to secondary school, a copy of the identity card is mandatory for enrolment. This means, in practice, that birth registration is a necessary requirement for a person to be admitted to secondary school.

Access to health (emergency services only)

Yes () No () Unclear (X) Law _____

Article 77(1) of the Constitution states a general right to medical and health care. Article 77(2) requires the State to develop and ensure an operational health service throughout Angola. This means that in theory all persons should have the right to healthcare in general terms.

"1. The state shall promote and guarantee the measures needed to ensure the universal right to medical and health care, as well as the right to child care and maternity care, care in illness, disability, old age and in situations in which they are unable to work, in accordance with the law.

2. In order to guarantee the right to medical and health care, the state shall be charged with:

a) Developing and ensuring an operational health service throughout national territory;

b) Regulating the production, distribution, marketing, sale and use of chemical, biological and pharmaceutical products and other means of treatment and diagnosis;

c) Encouraging the development of medical and surgical training and research into medicine and health care.

3. Private and cooperative initiatives in the spheres of health care, welfare and social security shall be overseen by the state and exercised under the conditions prescribed by law".

No specific provisions requiring a birth certificate were found in the National Health Policy.

Access to health (primary health services only)

Yes () No () Unclear (X) Law _____

Please refer to the previous answer on 'Access to health (emergency services only)' as the same legal provisions apply.

Access to health (all services)

Yes () No () Unclear (X) Law _____

Please refer to the previous answer on 'Access to health (emergency services only)' as the same legal provisions apply.

Access to social security programmes / cash benefits

Yes () No () Unclear (X) Programme name _____ Law _____

No relevant specific legislative provisions were found in Law 8/91, 20 April, also known as the Social Security Law.⁸

⁸ Law 8/91, 20 April.

No specific provisions were found in government policies that would require a birth registration certificate in order to access social security programmes or cash benefits.

Nationality

Yes () No () Unclear (X) Law _____

Chapter II of Law 1/05, 1 July, also known as the Angolan Citizenship Law ("**Citizenship Law**")⁹ defines that any child of an Angolan father or mother, whether born in Angola or outside Angola, is considered an Angolan citizen by origin. Article 24 of the Citizenship Law states that for such persons born in Angola to an Angolan parent the birth certificate acts as proof of nationality, and Article 19 clarifies that there are no further registration requirements, where nationality has been allocated through birth registration in the civil register. Article 4 of the Citizenship Law states that Angolan nationality takes effect from birth.

No specific provisions were found in Decree 1/86, 11 January, also known as the Regulatory Law of the Citizenship Law.¹⁰

Identification card

Yes (X) No () Law Law 4/09, 30 June.

Law 4/09, 30 June ("**Civil Identity Law**")¹¹ governs the legal regime of civil identity and the issuance of identity cards. Article 20(1)(b) of the Civil Identity Law states that the formal request for issuing an identity card must be submitted on paper and must include a copy of the birth registration certificate.

Passport

Yes () No () Unclear (X) Law _____

No specific legal provisions or government policies were found with specific reference to the requirement for a birth registration certificate. The website of the Angolan Embassy in the United Kingdom¹² states that an application for an Angolan passport submitted through the Embassy must be supported by an original and photocopy of one of the following three documents: "*Expired passport, Angolan identity card, Birth certificate issued in Angola (authenticated by the Registry Office of the Ministry of External Relations)*".

Other (Please specify e.g. enrolment for social protection programme/ food bank)

No specific legal provisions were found relating to this point. However, it is worth mentioning that Angolan nationality, and a document that proves it, may be a requirement to open a bank account or to invest in Angola in many sectors. For example, to be the shareholder of an Angolan company

⁹ Law 1/05, 1 July.

¹⁰ Decree 1/86, 11 January.

¹¹ Law 4/09, 30 June.

¹² Angolan Embassy in the United Kingdom, "Angolan Passports", available at http://www.angola.org.uk/en/passport_adult.html.

without any prior authorisation of the Government, Angolan nationality (and a national identity card) is necessary.

References

Legislation and Policies Reviewed:

- Constitution of the Republic of Angola;
- Decree 1/86, 11 January;
- Decree Law 47678 – Civil Registry Code;
- Executive Decree 309/13, 23 September;
- Law 8/91, 20 April;
- Law 1/05, 1 July;
- Law 4/09, 30 June;
- Presidential Decree 16/11, 11 January;
- Presidential Dispatch 80/13, 5 September;
- National Health Policies.

BANGLADESH

QUESTIONNAIRE ON BIRTH REGISTRATION - BANGLADESH

Key Points

- In 2001 the Birth and Death Registration Project was established under the Local Government Division to promote birth registration, and in 2006 new legislation came into force which imposes a legal obligation on parents or guardians of children to register their births within 45 days.
- Registration within two years of birth is free, while small fees are charged for late birth registration.
- Bangladeshi legislation states that birth registration is required for many activities in the public and private spheres, ranging from acquiring a passport to obtaining utility connections.

Name of official authority in charge of registering a child's birth:

According to section 6 of the Birth and Death Registration Act 2004 (Act No. 29 of 2004) (as amended) ("**Registration Act**")¹³ the "Registrar" is responsible for registering births, maintaining the birth register and issuing birth certificates in Bangladesh.

Section 4(1) of the Registration Act provides that the identity of the "Registrar" is determined by where a person is born or where they permanently reside, namely:

- a) for a person born or who permanently resides in a city corporation,¹⁴ the Mayor (or any officer or commissioner to whom they have delegated responsibility) shall act as Registrar;
- b) for a person born or who permanently resides in the jurisdiction of a Paurashava,¹⁵ the Chairman of the concerned Paurashava (or any officer or commissioner to whom they have delegated responsibility) shall act as Registrar;
- c) for a person born or who permanently resides in the jurisdiction of a Union Parishad,¹⁶ the Chairman of the concerned Union Parishad (or any officer or member to whom they have delegated responsibility) shall act as Registrar;

¹³ The Birth and Death Registration Act 2004, Act No. 29 of 2004 (as amended by the Birth and Deaths Registration (Amendment) Act 2013, Act No. 34 of 2013). In writing this questionnaire, we used a copy of the legislation received from Khaled Bin Yousuf, Assistant Programmer at the Birth and Death Registration Project, Local Government Division, on 26 May 2015; a scan of this copy is included in this questionnaire at Appendix 1. The copy provided by Mr Yousuf differs slightly from the version found online at <http://www.refworld.org/pdfid/511b54192.pdf%20>, which we assume to be an older version which does not include the most recent amendments.

¹⁴ For example, Chittagong CC, Comilla CC, Dhaka North CC, Dhaka South CC, Gazipur CC, Narayanganj CC, Barisal CC, Khulna CC, Rajshahi CC, Rangpur CC and Sylhet CC.

¹⁵ These are also known as "municipal corporations" and there are over 60, including Chandpur, Laksam, Jamalpur, Tangail, Kushtia, Narail, Bogra, Pabna, Saidpur, Panchagarh, Habiganj and Beanibazar.

d) for a person born or who permanently resides in the jurisdiction of a cantonment board,¹⁷ the Executive Officer of the cantonment board (or any officer to whom they have delegated responsibility) shall act as Registrar; and

e) for a Bangladeshi born abroad, any officer empowered by the Ambassador of Bangladesh in the concerned country shall act as Registrar.

The effect of the above provisions mean that a child born whilst on holiday in or visiting a particular jurisdiction (i.e. a city corporation, a Paurashava, a Union Parishad, a cantonment area or overseas), but whose family resides permanently (i.e. for at least three years) in a different jurisdiction within Bangladesh, can either be registered in the jurisdiction of their permanent residence or in the jurisdiction of their birth.¹⁸ For the avoidance of doubt, there is no explicit guidance or detail in the legislation (and we have not been able to obtain further clarity) relating to whom precisely is required to “permanently reside”, but this will presumably be the mother and/or the father.

Section 4(2) of the Registration Act provides that only one person shall act as Registrar in any “single area” (i.e. jurisdiction). Section 7(a)(1) of the Registration Act provides for the role of a “Registrar General” and states the Registrar General's duties and functions shall be determined by “rules”. We have not however, been able to access any such rules. Commentaries from in-country reports suggest that the Registrar General's role is to oversee the Registrar.¹⁹ Please note that we have been informed by an employee at the Birth and Death Registration Project in Bangladesh that the Registrar General's office, which was announced in September 2013, is in the process of being established and, at the time of writing, an appointee has not yet been confirmed.²⁰

Where is the civil registry located in the government?

- () Ministry of Justice
- () Ministry of Interior
- () Electoral Agency
- () Independent Entity

¹⁶ These are also known as "Union Councils", and there are over 4450, including Kushumhati UP, Mahmudpur UP, Dania UP, Uttarkhan UP, Pathalia UP, Savar UP, Kalakopa UP, Basta UP, Sakta UP, Kulaa UP and Suapur UP.

¹⁷ This refers to military districts and includes Dhaka Cantonment, Alikadam Cantonment, Jalalabad Cantonment and Rangpur Cantonment.

¹⁸ Confirmation provided by Khaled Bin Yousuf, Assistant Programmer at the Birth and Death Registration Project, Local Government Division, in an email dated 19 June 2015, see Appendix 2.

¹⁹ World Health Organisation Report, "Registering Millions: Celebrating the Success and Potential of Bangladesh's Civil Registration and Vital Statistics System", (2014), p. 4, available at http://apps.searo.who.int/PDS_DOCS/B5114.pdf. See also UNICEF Bangladesh Country Office, "Birth Registration Factsheet", May 2014, available at [http://www.unicef.org/bangladesh/Birth_Registration\(2\).pdf](http://www.unicef.org/bangladesh/Birth_Registration(2).pdf).

²⁰ Confirmation provided by Khaled Bin Yousuf, Assistant Programmer at the Birth and Death Registration Project, Local Government Division, in an email dated 19 June 2015, see Appendix 2.

(X) Other - Local Government Division, Ministry of Local Government, Rural Development and Cooperatives

Law: _____

The Local Government Division of the Ministry of Local Government, Rural Development and Cooperatives ("**Local Government Division**") has the legal mandate for birth and death registration in Bangladesh.²¹ Within the Local Government Division, the Birth and Death Registration Project has responsibility for assisting with issues relating to birth registration.²² As mentioned above, it seems that the Bangladesh Government is in the process of appointing a Registrar General, and once this is completed, the responsibilities currently undertaken by the Birth and Death Registration Project will be transferred to the Registrar General.²³

We have not been able to locate any specific legislation that provides for birth registrations to fall under the remit of the Local Government Division, however, we note that the definitions section of the Registration Act defines "*Government*" as the "*Local Government Division, Ministry of Local Government, Rural Development and Cooperatives*". The Local Government Division is granted various powers under the Registration Act, including the ability to appoint a Registrar General to take responsibility for birth registrations.²⁴ This aligns with our understanding that the role will transition to the Registrar General. Section 7(a)(2) of the Registration Act alludes to further rules being issued regarding the Registrar General, so we anticipate further detail to be issued in due course.

Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?

Article 6 of the Constitution of Bangladesh ("**Constitution**") states that "*the citizenship of Bangladesh shall be determined and regulated by law*".²⁵ There are two key pieces of legislation concerning citizenship in Bangladesh: the Citizenship Act of 1951 (as amended) ("**Citizenship Act**")²⁶ and the Bangladesh Citizenship (Temporary Provisions) Order 1972 (as amended) ("**Citizenship Order**").²⁷

²¹ World Health Organisation (2014), op.cit.

²² Information provided by Khaled Bin Yousuf, Assistant Programmer at the Birth and Death Registration Project, Local Government Division, in an email dated 19 June 2015, see Appendix 2.

²³ Information provided by Khaled Bin Yousuf, Assistant Programmer at the Birth and Death Registration Project, Local Government Division, in an email dated 19 June 2015, see Appendix 2.

²⁴ Section 7(a)(1), Registration Act.

²⁵ Article 6, Constitution of Bangladesh 1972 (last amended in 2014), available at <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=3ae6b5684&skip=0&query=constitution&coi=BGD>.

²⁶ The Citizenship Act 1951, Act 2 of 1951, as amended by the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972) and the Citizenship (Amendment) Act 2009, Act 17 of 2009, available at http://bdlaws.minlaw.gov.bd/print_sections_all.php?id=242.

²⁷ President's Order No. 149 of 1972, "The Bangladesh Citizenship (Temporary Provisions) Order 1972" (as amended), available at <http://www.refworld.org/cgi->

The Citizenship Order seems to have come into force in order to implement temporary provisions which were intended to meet the immediate needs that arose out of the changed circumstances following Bangladesh's independence. We have not found any evidence to suggest that these provisions have been repealed. Article 2(i) of the Citizenship Order provides that a person shall be deemed to be a citizen of Bangladesh if their father or grandfather was born in a territory that was considered part of Bangladesh on or after 25 March 1971 ("**Independence Day**"), and was a permanent resident at that time and continues to be a permanent resident in such territory. Article 2(ii) of the Citizenship Order provides that any person who was a permanent resident of such a territory and continues to be so resident shall also be deemed to be a citizen of Bangladesh. There are some exceptions to the above rules (for example, Article 2A provides that a person to whom Article 2 would have applied but for their residence in the UK, shall be deemed to continue to be a permanent resident in Bangladesh, and Article 2B provides the Government may grant citizenship to European or North American citizens). However, generally this law provides for a citizenship system of *jus sanguinis*.

The Citizenship Act provides for various categories of citizenship including "*citizenship at the date of the commencement of the Citizenship Act*" (which includes those whose parents or grandparents were born in particular territories prior to the Citizenship Act),²⁸ "*citizenship by birth*" (which includes those who are born in Bangladesh after the commencement of the Citizenship Act),²⁹ and "*citizenship by descent*" (which applies to those born after the commencement of the Citizenship Act whose father or mother is a citizen of Bangladesh).³⁰ This law therefore recognises both *jus sanguinis* and *jus soli*.

The Citizenship Order did not repeal the Citizenship Act and nor was the Citizenship Order expressed as amending the Citizenship Act. Instead it seems that the Citizenship Order (itself expressed as "*temporary*") co-exists alongside the Citizenship Act. This situation has resulted in requests for the citizenship law of Bangladesh to be consolidated into a single comprehensive law³¹ and unofficial sources suggest that this process is underway.³² The enactment of a single comprehensive law would help to clarify the position.

Is there any legal obligation to register children?

Yes (X) No ()

If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.

The main legislation that governs birth registration in Bangladesh is the Registration Act which came into force on 3 July 2006, and was subsequently amended, most recently in 2013.

bin/texis/vtx/rwmain?page=country&category=&publisher=NATLEGBOD&type=&coi=BGD&rid=&docid=3ae6b51f10&skip=0.

²⁸ Section 3, Citizenship Act.

²⁹ Section 4, Citizenship Act.

³⁰ Section 5, Citizenship Act.

³¹ The Law Commission of Bangladesh, "Report on the Proposed Law of Citizenship of Bangladesh", (2005), available at <http://www.lc.gov.bd/reports/67.pdf>.

³² The Dhaka Tribune, "Scrutiny of draft citizenship act under way", 5 October 2014, available at <http://www.dhakatribune.com/bangladesh/2014/oct/05/scrutiny-draft-citizenship-act-under-way>.

Section 8 of the Registration Act provides that *“the father or mother or guardian of the child or any prescribed person shall be liable to submit information relating to the birth of a child to the Registrar within 45 days of the child's birth”*.

Section 9(1) of the Registration Act lists the prescribed persons who can provide information to the Registrar, namely:

“[...]

- a) member and secretary of a Union Parishad;*
- b) village police;*
- c) a councillor of a City Corporation or Paurashava;*
- d) health and family welfare worker appointed in the Union Parishad, Paurashava, City Corporation or Cantonment area;*
- e) field worker appointed by a non-government organisation engaged in the health and family welfare sector;*
- f) for births taking place in government or non-government hospitals or clinics or maternity centres or in any other institutions, the medical officer in charge of such institution or a physician or any other officer delegated on his behalf;*
- g) superintendent of any graveyard or crematorium;*
- h) any other officer or staff engaged by the Registrar;*
- i) in case of a birth inside a jail, the jail super³³ or any person delegated by him on his behalf;*
- j) in the case of any “abandoned child found in the public place”, the officer in charge of the police station concerned with such public place; or*
- k) any other prescribed person or institution”.*

Section 9(2) of the Registration Act appears to place a continuing obligation on a person who provides information to the Registrar in relation to a birth, in that it provides that any such person shall also take the necessary steps to register the birth of the concerned person or provide them with assistance to register.

Does the child need to be registered within a certain amount of time from birth?

Yes (X) No ()

If yes, by when?

According to section 8 of the Registration Act, a child's birth must be registered within 45 days of the birth. Section 10 of the Registration Act provides that the name of the child should be fixed before

³³ Please note that this is the wording used in the unofficial translation of the Registration Act. We assume that "super" is a reference to the superintendent or managing supervisor of the jail.

registering their birth, however, if no name has been given, then the name should be provided to the Registrar within 45 days of registration.

Is a paper certificate issued as a result of the registration?

Yes (X) No ()

Section 6(d) of the Registration Act provides that issuing birth certificates is one of the Registrar's duties and section 11 provides that "*on the basis of the petition by any person, the Registrar shall issue a birth certificate for a prescribed fee and in due process.*" The use of the words "*on the basis of the petition by any person*" suggests that there is a separate process for obtaining a certificate, however no further information is provided in relation to this process or the applicable fee. Based on the legislation, it is not therefore clear whether the certificate is issued automatically as a result of registration.

According to local sources, once a birth has been registered, a birth certificate will be automatically issued.³⁴ According to the Birth and Death Registration website,³⁵ there is no additional fee for the original birth certificate, although there will be a fee of Taka 25.00 (USD 0.32),³⁶ if any additional copies are requested.

The birth certificate contains a 17 digit Birth Registration Number ("**BRN**").³⁷

Different by region/area

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

Is there a separate fee for the issuance of a paper certificate?

Yes () No (X)

Section 11 of the Registration Act refers to there being a "*prescribed fee and due process*" for the issuance of the birth certificate however (as stated above) no further detail is provided in the Registration Act as to the fee or the process and we have not been able to obtain copies of any

³⁴ See email from Khaled Bin Yousuf, Assistant Programmer at the Birth & Death Registration Project, Local Government Division, dated 19 June 2015, see Appendix 2.

³⁵ Local Government Division Website, "Birth and Death Registration Project", available at <http://br.lgd.gov.bd/>.

³⁶ All conversions were made at the time of writing the report using a commercial exchange rate, available at www.xe.com.

³⁷ UNICEF and Ministry of Planning of Government of Bangladesh, Birth and Death Registration presentation, 2013, <http://www.oicvet.org/imgs/news/image/829-s4-presentation-bangladesh.pdf>,

legislation or rules that provide further clarity. Local sources suggest that there is no separate fee for the issuance of an original birth certificate, unless additional or duplicate copies are required.³⁸

Different by region/area

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

Birth Registration Fee

Yes (X) No () Conditional ()

The Bangladesh Local Government Division website contains a "Birth and Death Registration Project" homepage ("**LGD Website**") which suggests that if registration occurs within two years from the date of birth then there is no charge.³⁹ Failure to register within two years however, means that a charge of Taka 5.00 (USD 0.06) (for those registering in Union Parishads and Municipalities) and Taka 10.00 (USD 0.13) (for those registering in City Corporations and Cantonment Board areas) shall apply for every year thereafter.

If yes, amount in USD:

USD 0.06-0.13.

If it's conditional, please provide reasons/cases for exemption.

As noted above, if a birth is registered within two years from the date of birth, a registration fee does not apply. The LGD Website provides a table setting out the applicable fees.⁴⁰

Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration')

Yes (X) No ()

Section 13 of the Registration Act provides that if a birth is not registered within the stipulated time (i.e. 45 days from the date of birth in accordance with section 8 of the Registration Act), the birth can be registered at a later date with payment of a late fee and in accordance with the prescribed process. The cost of the "late fee" or details of the "prescribed process" are not set out in the Registration Act and we have not been able to obtain further information on this. When we asked an employee at the Birth and Death Registration Project to confirm the amount of the late fee under Section 13 of the Registration Act we were referred to the Taka 5.00-10.00 (USD 0.06-0.13) charge that is applicable if registration occurs after two years.

³⁸ See email from Khaled Bin Yousuf, Assistant Programmer at the Birth & Death Registration Project, Local Government Division, dated 19 June 2015, see Appendix 2.

³⁹ LGD Website, op.cit.

⁴⁰ LGD Website, op.cit.

It is not therefore clear whether the late fee envisaged under the Registration Act is the fee that is payable if registration does not occur within two years (albeit there is an inconsistency with the 45 day period envisaged under the Registration Act), or whether a person who registers a birth outside of the 45 day period, but within the two year period, qualifies for free birth registration, but is subject to a separate late fee.

We note that section 21 of the Registration Act provides for a penalty of up to Taka 5000 (USD 64) for breach of the Registration Act, however, it seems unlikely that such a punitive penalty would be applied for a late registration.⁴¹

If yes, amount in USD:

Varies depending on when a birth is registered and increases by Taka 5-10 (USD 0.06-0.13) for every year of late registration following the initial two years after the date of birth.

Requirements for Birth Registration (tick what applies):

Identification of Child's Father (X) His Nationality (X)

Identification of Child's Mother (X) Her Nationality (X)

Marital Status ()

Section 5(2) of the Registration Act states that “*for the purpose of registration of the birth (...) of any person, information should be submitted to the Registrar within the specified time and prescribed manner*”. This suggests that there is a requirement for certain documentation to be submitted at the time of registering a birth. The Registration Act does not, however, specify what is required beyond stating that a declaration as to the accuracy of the information being submitted must be provided, together with confirmation that such birth has not been registered previously⁴² and that the Registrar is empowered to make inquiries about the authenticity of information submitted.⁴³

According to the Birth and Death Registration Project, when registering a birth it is necessary to submit the following information:

- Full name;
- Date of Birth;
- Place of Birth (including name of district);
- Gender;
- Mother's full name and nationality;
- Father's full name and nationality;
- Permanent residence (i.e. ancestral address, or home for over three years);

⁴¹ Section 21, Registration Act.

⁴² Section 5(3), Registration Act.

⁴³ Section 7(1), Registration Act.

- Present residence (not mandatory, but can be submitted).⁴⁴

In addition to the above, other sources suggest that when registering the birth of a new born, a medical birth certificate or immunisation card must be provided, and, if registration takes place more than 45 days after birth, then either a medical certificate or a school certificate or any other document which can prove the date of birth of the person being registered must be provided.⁴⁵

Are Stateless / Refugee Births Registered?

Yes (X) No ()

Section 3 of the Registration Act states that “*the birth and death of any person has to be registered according to the provisions of this Act*”. Under Section 2(n) of the Registration Act, a “Person” is defined as any Bangladeshi or any foreigner living in Bangladesh and also any refugees taking shelter in Bangladesh.

Are children of single parents registered?

Yes (X) No ()

Section 3 of the Registration Act states that “*the birth and death of any person has to be registered according to the provisions of this Act*”.

Are all children born in the territory registered?

Yes (X) No ()

Section 3 of the Registration Act states that “*the birth and death of any person has to be registered according to the provisions of this Act*”. Under Section 2(n) of the Registration Act, a “Person” is defined as any Bangladeshi or any foreigner living in Bangladesh and also any refugees taking shelter in Bangladesh.

If no, please provide list of those not registered

Not applicable.

Other Requirements (if none, put n/a)

Not applicable.

Registration System Set-up

Electronic Submission () Paper Submission () Both (X)

⁴⁴ Confirmation provided by Khaled Bin Yousuf, Assistant Programmer at the Birth & Death Registration Project, Local Government Division, on 26 May 2015.

⁴⁵ Ministry of Planning, "Birth and Death Registration in Bangladesh", slide 13, available at <http://www.oicvet.org/imgs/news/image/829-s4-presentation-bangladesh.pdf>.

The LGD Website suggests that births can be registered either by submitting a handwritten application form to the Registrar or by completing an application form online.⁴⁶ The Online Birth Registration System ("BRIS") was launched in October 2010 and the Birth and Death Registration Project's aim is to move away from manual registration.⁴⁷ A World Health Organisation report from 2014 suggests that online birth registration can now be carried out at 5,000 birth registration service points across the various Union Parishads, City Corporations and Cantonment Boards, and at various Bangladesh embassies abroad.⁴⁸

Location of registration facilities

Capital city Yes (X) No ()

Other cities Yes (X) No ()

Villages Yes (X) No ()

Other There are also 52 Bangladeshi embassies abroad which can register births.⁴⁹

Birth Registration is required for:

Access to education

Yes (X) No () Law Sections 18(1) and 18(3)(c), Registration Act.

Section 18(1) Registration Act provides that a birth certificate shall amount to sufficient proof of age and birth before any school or college, and section 18(3)(c) of the Registration Act provides that a birth certificate shall be used to prove the age of a person applying for admission to academic institutions.

Section 18(4) of the Registration Act⁵⁰ further provides that:

"Notwithstanding anything contained in the sub-section (3), the Government, by notification in the official gazette may provide any individual or class of individuals or office or organisation or special class of office or organisation with waiver from the application of the provision of the sub-section (3) for a period specified by it".

⁴⁶ LGD Website, op.cit.

⁴⁷ LGD Website, op.cit.

⁴⁸ World Health Organisation (2014), op.cit.

⁴⁹ Information provided by Khaled Bin Yousuf, Assistant Programmer at the Birth and Death Registration Project, Local Government Division, in an email dated 19 June 2015, see Appendix 2. We note that other sources suggest that in 2014 it was possible to register at 28 different Bangladesh embassies overseas (see World Health Organisation (2014), op.cit.) and we suspect this discrepancy reflects the increasing number of embassies that provide this service.

⁵⁰ Please note that the unamended version of section 18(4) of the Registration Act (available at <http://www.refworld.org/pdfid/511b54192.pdf>) states that "Notwithstanding anything-contained in sub-section (3), any educational institution can admit students without a birth certificate, and in that case it shall be necessary to submit the birth certificate to the educational institute within 45 days from the date of such admission".

However, we have not found evidence of a notification waiving the requirement for a birth certificate for access to academic institutions.

Obtaining a primary school diploma

Yes (X) No () Law *Sections 18(1) and 18(3)(c), Registration Act.*

Whilst we have not found any legislation that specifically concerns primary school diplomas, section 18(1) Registration Act provides that a birth certificate shall amount to sufficient proof of age and birth before any school or college, and section 18(3)(c) provides a birth certificate shall be used for admission to academic institutions, which presumably includes primary school.

Obtaining a secondary school diploma

Yes (X) No () Law *Sections 18(1) and 18(3)(c), Registration Act.*

Whilst we have not found any legislation that specifically concerns secondary school diplomas, section 18(1) Registration Act provides that a birth certificate shall amount to sufficient proof of age and birth before any school or college, and section 18(3)(c) provides a birth certificate shall be used for admission to academic institutions, which presumably includes secondary school.

Access to health (emergency services only)

Yes () No (X) Law _____

We have not found any legislation which requires birth registration in order to access emergency healthcare.

Access to health (primary health services only)

Yes () No (X) Law _____

We have not found any legislation which requires birth registration in order to access primary healthcare.

Access to health (all services)

Yes () No (X) Law _____

We have not found any legislation which requires birth registration in order to access healthcare services.

Access to social security programmes / cash benefits

Yes () No () Unclear (X) Programme name _____ Law _____

Whilst we have not located legislation that suggests that access to social services is dependent on the possession of a birth certificate, a UN Report regarding Bangladesh's compliance with the Convention

on the Rights of the Child suggests that the lack of registration is a basis for discrimination and exclusion from access to social services.⁵¹

Nationality

Yes (X) No () Law *Section 18(3)(a), Registration Act and the Birth and Death Registration Rules 2006.*

Birth registration and a birth certificate are required to obtain a passport and National ID card according to section 18(3)(a) of the Registration Act and the Birth and Death Registration Rules 2006 ("**Registration Rules**").⁵²

Identification card

Yes (X) No () Law *Section 18(3)(gg), Registration Act.*

Section 18(3)(gg) of the Registration Act provides that a birth certificate shall be used as proof of age for obtaining a national identity card.

Passport

Yes (X) No () Law *Section 18(3)(a), Registration Act.*

Section 18(3)(a) of the Registration Act provides that a birth certificate shall be used as proof of age for a person applying for a passport.

Other (Please specify e.g. enrolment for social protection programme/ food bank)

Section 18(2) of the Registration Act provides that the birth certificate shall be deemed to be one of the primary evidences of age and birth, and a birth certificate is regarded under the Evidence Act 1872 as a "Public Document", within the same category of documents as documents produced by courts and government bodies.⁵³

Section 18(3) of the Registration Act provides that a birth certificate shall be used to prove the age of a person in the following additional circumstances:

"(...)

(a) *registration of marriage; (...)*

(b) *appointment to government, non-governmental or "autonomous" organisations;*

(c) *issuance of driving licence;*

(d) *preparation of voter list;*

⁵¹ Committee on the Rights of the Child, 'Concluding Observations: Bangladesh', 26 June 2009, available at <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=4a8e977d0&skip=0&query=birthregistration&coi=BGD>.

⁵² Information provided by Khaled Bin Yousuf Assistant Programmer at the Birth and Death Registration Project, Local Government Division, in an email dated 19 June 2015, see Appendix 2.

⁵³ Section 74, Evidence Act 1872 (as amended).

(e) *land registration; (...)*

(f) *life insurance policy; and*

(g) *in any other case prescribed by the rules".*

The Registration Rules also provide that a birth certificate is mandatory in the following circumstances: opening a bank account, obtaining an export and import licence, obtaining utility connections (i.e. gas, water, telephone, electricity), issuance of a tax ID number, obtaining a contractor licence, approval for building construction designs/plans, vehicle registration, and procuring a trade licence.⁵⁴ Whilst we have not managed to obtain copies of such rules, the LGD Website confirms that a birth certificate is required in these cases.⁵⁵

Section 18(4) of the Registration Act, however, provides that the Government may waive the requirement for a birth certificate under the Registration Act (or a requirement under any related rules, such as the Birth and Death Registration Rules 2006) for a given individual or class of individuals.

References

Legislation Reviewed:

- Birth and Death Registration Act 2004, Act No. 29 of 2004 (as amended by the Birth and Death Registration (Amendment) Act 2013, Act 34 of 2013); the text reproduced at Appendix 1 was provided by Khaled Bin Yousuf, Assistant Programmer at the Birth and Death Registration Project, Local Government Division.
- Constitution of Bangladesh 1972 (as amended, most recently in 2014), available at <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=3ae6b5684&skip=0&query=constitution&coi=BGD>
- Citizenship Act 1951, Act 2 of 1951, as amended by the Bangladesh (Adaptation of Existing Laws) Order 1972 (President's Order No. 48 of 1972) and the Citizenship (Amendment) 2009, Act 17 of 2009, available at http://bdlaws.minlaw.gov.bd/print_sections_all.php?id=242
- Evidence Act 1872, as amended by the Repealing Act of 1938, the Bangladesh Laws (Revisions and Declaration) Act 1973;
- President's Order No. 149 of 1972, The Bangladesh Citizenship (Temporary Provisions) Order 1972 as amended by the Bangladesh Citizenship (Temporary Provisions) (Amendment) Ordinance, 1973 (Ordinance No. X of 1973), the Bangladesh Citizenship (Temporary Provisions)

⁵⁴ Information provided by Khaled Bin Yousuf Assistant Programmer at the Birth and Death Registration Project, Local Government Division, in an email dated 19 June 2015, see Appendix 2. See also International Development Law Organisation, "Bangladesh Country Report 2010", p. 18, available at http://www.idlo.org/DOCCalendar/BangladeshReport_Final.pdf, and the LGD Website, op.cit.

⁵⁵ LGD Website, op. cit.

(Amendment) Ordinance, 1978 (Ordinance No. VII of 1978) and The Bangladesh Citizenship (Temporary Provisions) (Amendment) Act, 1990 (Act No. LVIII of 1990), available at

<http://www.refworld.org/cgi-bin/telex/vtx/rwmain?page=country&category=&publisher=NATLEGBOD&type=&coi=BGD&rid=&docid=3ae6b51f10&skip=0>

Further Sources:

- Birth and Death Registration Project website, Local Government Division, available at <http://br.lgd.gov.bd/>
- Committee on the Rights of the Child, "Concluding Observations: Bangladesh", 26 June 2009, available at <http://www.refworld.org/cgi-bin/telex/vtx/rwmain?page=search&docid=4a8e977d0&skip=0&query=birthregistration&coi=BGD>
- International Development Law Organisation, "Bangladesh Country Report 2010", available at http://www.idlo.org/DOCCalendar/BangladeshReport_Final.pdf
- Khaled Bin Yousuf, Assistant Programmer, Birth and Death Registration Project, Local Government Division, Answers to Questions provided by email on 19 June 2015; the text is reproduced at Appendix 2.
- Law Commission of Bangladesh, "Report on the Proposed Law of Citizenship of Bangladesh 2005", available at <http://www.lc.gov.bd/reports/67.pdf>
- Ministry of Planning, "Birth and Death Registration in Bangladesh", (2013), available at <http://www.oicvet.org/imgs/news/image/829-s4-presentation-bangladesh.pdf>
- The Dhaka Tribune, "Scrutiny of draft citizenship act under way", 5 October 2014, available at <http://www.dhakatribune.com/bangladesh/2014/oct/05/scrutiny-draft-citizenship-act-under-way>
- UNICEF Bangladesh Country Office, "Birth Registration Factsheet", May 2014, available at [http://www.unicef.org/bangladesh/Birth_Registration\(2\).pdf](http://www.unicef.org/bangladesh/Birth_Registration(2).pdf)
- UNICEF, "A Passport to Protection: A Guide to Birth Registration Programming", (2013), available at http://www.unicef.org/protection/files/UNICEF_Birth_Registration_Handbook.pdf
- UNICEF, "Birth Registration in Bangladesh", (2010), available at [http://www.unicef.org/bangladesh/Birth_Registration\(1\).pdf](http://www.unicef.org/bangladesh/Birth_Registration(1).pdf)
- US State Department, "Country Human Rights Report 2013: Bangladesh", available at <http://www.state.gov/documents/organization/220600.pdf>
- World Health Organisation, "Registering Millions: Celebrating the Success and Potential of Bangladesh's Civil Registration and Vital Statistics System", (2014), available at http://apps.searo.who.int/PDS_DOCS/B5114.pdf

Appendix 1 - Birth and Death Registration Act 2004

This copy of the Birth and Death Registration Act 2004 was provided by email by Khaled Bin Yousuf, Assistant Programmer at the Birth and Death Registration Project, Local Government Division.

The Birth and Death Registration Act, 2004.

The Birth and Death Registration Act, 2004.
(Act 29 of 2004)

[7 December , 2004]

An Act to amend and consolidate the law relating to the Births and Deaths Registration.

WHEREAS it is expedient and necessary to amend and consolidate the existing law relating to the Births and Deaths registration;

it is hereby enacted as follows:-

Chapter-1 Preliminary

Short title and commencement	1. (1)This Act shall be called the Birth and Death Registration Act, 2004. (2) This Act shall come into force on the date as the Government shall determine, by notification in the official gazette.
Definitions	2. In this Act, unless there is anything repugnant in the subject or context— (a)"Guardian" means the guardian defined in the The Guardians and Wards Act, 1890(Act VIII of 1890); ¹ [(b) "Union Parishad" means the Union Parishad defined in theThe Local Government(Union Parishad) Ordinance,1983(Act LI of 1983);] (c) "Ward" means any ward of the City Corporation or Paurashava or Union Parishad; ² [(d) "Councillor" means any Councillor of the City Corporation or Paurashava;] (e)"Cantonment" means any Cantonment constituted under Cantonment Act, 1924(Act II of 1924); ³ [(f) "Birth and Death certificate" means the Birth and Death certificate given by the Registrar on the basis of the information recorded in the Birth and Death Register;] (g) "Birth" means live birth of any person; (h) "Prescribed" means prescribed by the rules made under this Act; (i) "Registrar" means any person entrusted with the responsibility under section-4; (j) "Registration" means registering the birth or death of any person in the register; ⁴ [(k) "Register" means any register made by hand writing or by means of IT in which birth or death of any person is recorded;] ⁵ [(l) "Paurashava" means any paurashava constituted under The Local Government (Paurashava) Ordinance, 1977(Ordinance XXVI of 1977); ⁶ [(m) " Administrator" means any administrator under The Local Government(City Corporation) Act, 2009(Act 60 of 2009) or, as appropriate, The Local Government (Paurashava) Act, 2009(Act 58 of2009);]

(n) "Person" means any Bangladeshi or any foreigner residing in Bangladesh, and any refugee taking shelter in Bangladesh;
 (o) "Death" means termination of the life of any person;
 (p) "Member" means any member of the Union Parishad;
 (q) "Government" means Local Government Division, Ministry of Local government, Rural Development and Cooperative; ⁷[***]
⁸[(r) "City Corporation" means City Corporation constituted under The Local Government(City Corporation) Act, 2009(Act 60 of 2009); and]
⁹[(s) "Registrar General" means Registrar general appointed under section 7(a).

Predominance of the law 3. Notwithstanding anything contained in any other law, after this act comes into force, birth or death of any person shall have to be registered in accordance with the provisions of this act.

Chapter-2 Registrar and Registration

Registrar 4. ¹⁰[(1) Subject to the provision of the sub-section (2), for the purpose of the birth and death registration, the following persons shall discharge the duties as Registrars, such as :-]
 (a) In the case of the person born, died or resided permanently within the City Corporation area, the Mayor of the City Corporation concerned or, as appropriate, any officer or councilor empowered by the Administrator, for the specific time and jurisdiction;
 (b) In the case of the person born, died or resided permanently within the Paurashava area, the Chairman or, as appropriate, the Administrator or any officer or councillor empowered by him for the specific time and jurisdiction;
 (c) In the case of the person born, died or resided permanently within the Union Parishad area, the Chairman of the Union Parishad concerned or any officer or member empowered by the Government for the specific time and jurisdiction;
 (d) In the case of the person born, died or resided permanently within the Cantonment area the Executive officer of the Cantonment Board concerned or any officer empowered by him;
 (e) In the case of any Bangladeshi born and died abroad or any Bangladeshi residing abroad upto the time or date specified by the Government by notification in the official gazette, any officer empowered by the High Commissioner of Bangladesh High Commission ;
 (2) For the purpose of birth and death registration, not more than one person can discharge duties as the Registrar in any single area;

Registration 5. (1) The Registrar shall record births and deaths of all the persons in the register irrespective of race, religion, caste, clan or sex;
 (2) For the purpose of registration of the birth and death of any person, information should be submitted to the registrar within the specified time and prescribed manner ;
 (3) In the case of submitting information under this section for the purpose of registration of birth and death, there shall be a declaration by the informant that such information is correct and such birth or death has not been registered previously.

Duties of the Registrar	6.	<p>The Registrar shall have the following duties, such as:-</p> <p>(a) To ensure registration of the births and deaths of all the persons;</p> <p>(b) To collect information necessary for registration, print or procure form, register and certificate;</p> <p>¹¹[(c) To preserve tasks, files or registers relating to the registration;]</p> <p>(d) To issue birth and death registration certificate, and</p> <p>(e) Any other duties prescribed by the rules.</p>
Power of Registrar	7.	<p>(1) For the necessity of verifying the authenticity of information concerning the registration of any person, the Registrar can make inquiry by himself or by anybody else empowered by him;</p> <p>(2) If birth or death of any person is not registered within the prescribed time limit, the Registrar can issue notice, with instruction to submit information relating to the birth and death, upon the parent or son or daughter or guardian of the person concerned or any prescribed person;</p> <p>(3) For the interest of inquiry under sub-section (1) the Registrar or person empowered by him can ask for the register and if necessary, can issue notice upon any person for giving evidence.</p>
Appointment of Registrar General etc		<p>¹²[7a.(1) The Government , with a view to fulfill the purpose of this Act, may appoint a Registrar general and necessary number of officers and staff and terms of their services shall be determined by the Government;</p> <p>(2) Duties and functions of the Registrar General shall be determined by the rules;]</p>
Person liable for giving information on Births and Deaths	8.	<p>(1) Father or mother or guardian of the child or any prescribed person shall be liable to submit information relating to the birth of a child to the Registrar within 45(forty five) days' of the child's birth;</p> <p>(2) The son or daughter or guardian of the deceased or the prescribed person shall be liable for submitting information related to the death of a person to the Registrar within 13[45(forty five)] days of the death.</p>
Duties of certain officer or staff	9.	<p>(1) The following persons can submit information to the Registrar for registration of the birth and death of any person, such as:-</p> <p>(a) Member and secretary of the Union Parishad;</p> <p>(b) Village Police;</p> <p>(c) 14 [Councilor] of the City Corporation or Paurashava;]</p> <p>(d) Health Worker and Family Welfare Worker posted in the Union Parishad, Paurashava, City Corporation or the Cantonment area;</p> <p>(e) Field Worker of the Non-Government Organisation (NGO) engaged in the Health and Family Welfare;</p> <p>(f) In the case of birth and death in the Government or Non-Government Hospital or Clinic or maternity Centre or any other Institution, the Medical Officer in charge of that or Doctor or any authorised Officer;</p>

		<p>(g) Superintendent of any graveyard or Crematorium;</p> <p>(h) Any other Officer or Staff engaged by the Registrar;</p> <p>(i) In the case of birth or death in the jail, the Jail Super or Jailer or any person empowered by him;</p> <p>(j) In the case of abandoned children or unidentified dead person lying in the public place, the Officer- in-Charge of a Police station concerned; and</p> <p>(k) Any other prescribed person or organization.</p> <p>(2) If information relating to the birth or death of any person is provided to the person mentioned in the sub-section (1), he will take necessary steps by himself for registration of that or provide necessary assistance to the informant with advice for registration.</p>
Giving name of child	the	<p>10. Name of the child should be given before birth registration:</p> <p>Provided that birth of any child may be registered, if the child is not given any name and in that case, his name should be submitted within the next 45(forty five) days of registration.</p>
Issuance of Birth and Death Certificate		<p>11. On the basis of the petition by any person, the Registrar shall issue birth and death certificate for prescribed fee and in due process.</p>
Requisition information relating to registration	for	<p>12. (1) Subject to depositing prescribed fee anybody can submit petition to the Registrar for any information or extract in the birth and death register :</p> <p>Provided that causes of death cannot be included into the Extract given under sub- section (1).</p> <p>(2) All information and extract given under sub-section (1) should be certified by the Registrar and that shall be admissible as evidence.</p>
Delayed Registration		<p>13. If information on birth or death is not sent to the Registrar within the specified time mentioned in the section 8 it can be registered later on within the prescribed time, process, and subject to the payment of fee:</p> <p>Provided that in the case of registration of the person alive and dead before commencement of this act, no fee shall be required within 2(two) years of commencement of this act.</p>

Chapter-3

Preservation, Correction and inspection of the Registrar

Preservation of Records	14.	<p>(1) The Registrar shall preserve the register in a prescribed manner and format and the register shall be treated as the permanent record.</p> <p>(2) The Registrar shall be responsible for loss or destruction of the register.</p> <p>(3) In absence of the register, information relating to the birth and death can be preserved in the prescribed manner.</p>
Correction of the Registrar	15.	<p>¹⁵[(1)If incorrect information is recorded in the register or, as appropriate, birth or death certificate, petition for correction of that can be made with prescribed fee.</p> <p>(2) If the petition under sub-section (1) is received within 90(ninety) of the issue of the birth or death certificate, the Registrar within 30(thirty) working days of receiving the petition-</p> <p>(a) if considers the petition proper-</p>

- (i) will correct the register or ,as appropriate, birth or death certificate;
 - (ii) put his signature with date in the place of correction in the register; and
 - (iii) Will take back, for preservation, the certificate given earlier after issuing a corrected new birth or death certificate;
- (b) Will inform the petitioner in writing after rejecting the petition, if there is no justified reason for consideration of the petition.
- (3) If petition under sub-section (1) is received after lapse of 90(ninety) days from the issue of the birth or death certificate, within 10(ten) working days of receiving that petition-
- (i) Registrar mentioned in the clauses (a) , (b) and (d) of the section 4 of the subsection (1) is the Deputy Commissioner concerned ;
 - (ii) Registrar mentioned in the clause (c) is the Upazila Nirbahi Officer concerned; and
 - (iii) Registrar mentioned in the clause (e) send that to the Registrar General for consideration.
- (4) Within 15 (fifteen) days of receiving the petition under sub-section (3), as appropriate, the concerned Nirbahi Officer, Deputy Commissioner or Registrar General, after examining that petition, issuing order granting or rejecting the petition, shall send that order to the Registrar concerned.
- (5) If the petition is rejected under sub-section (4), the concerned Registrar shall inform the petitioner, in writing, within 7(seven) working days of receiving that order.
- (6) If the petition is granted under section (4), the Registrar concerned, within 7(seven) working days of receiving that order-
- (i) shall correct the register or, as appropriate, the birth or death certificate;
 - (ii) put signature with date in the place of correction in the register; and
 - (iii) take back, from the petitioner, the birth or death certificate given earlier for preservation after giving the new corrected birth or death certificate.]

Cancelling of birth or death certificate	¹⁶ [15A	If any birth or death certificate is given for reason of giving wrong information or false declaration, petition for cancellation of that is submitted by anybody with prescribed fee, the Registrar shall cancel the birth or death certificate concerned following the provisions of the sub-section (2) to (6) of the section15 and accordingly, put signature after correcting the related portion in the register.]
Supervision and Inspection	16.	Any person empowered by the Government, on this behalf, may supervise and inspect the office of the Registrar, register and all activities relating to the registration.
Reporting	17.	The Government, if necessary, may call for information relating to the registration or report thereof from the Registrar at any time and the Registrar shall be bound to provide that.

Chapter-4

Miscellaneous

Evidentiary Value of Birth or Death Certificate	18.	<p>(1) As the proof of the information relating to the age, birth and death of any person before any Office or Court or School-College or Government and Non-Government Organisations, Birth or Death Registration Certificate given under this Act shall be deemed to be admissible as evidence.</p> <p>(2) All the files and registers relating to the registration shall be deemed to be the Public Document in the meaning as the expression 'Public Document' has been used to mean in The Evidence Act, 1872(Act I of 1872) .</p> <p>(3) Notwithstanding anything in any other law, the Birth Certificate as a proof of age should be used in the following cases , such as :-</p> <p>(a) Issuance of Passport;</p> <p>(b) Registration of Marriage;</p> <p>(c) Admission into the Academic Institutions;</p> <p>(d) Appointment in the Government, Non-Government or Autonomous Organisations ;</p> <p>(e) Issuance of Driving License;</p> <p>(f) Preparation of Voter List;</p> <p>(g) Land Registration, ¹⁷[***]</p> <p>¹⁸[(gg) National Identity Card;</p> <p>(ggg) Life Insurance Policy; and;]</p> <p>(h) In any other case prescribed by the rule.</p> <p>¹⁹[(3a) Notwithstanding anything contained in any other law, as a proof of death of a person death certificate given under this Act should be used, such as :-</p> <p>(a) Getting succession certificate;</p> <p>(b) Getting family pension;</p> <p>(c) Claim of the Life Insurance of the deceased person;</p> <p>(d) Getting mutation and division of holding;</p> <p>(e) Any other matter specified by the rule.]</p> <p>²⁰[(4) Notwithstanding anything contained in the sub-section (3), the Government, by notification in the official gazette may provide any Individual or class of individuals or office or organization or special class of office or organization with waiver from the application of the provision of the subsection (3) for a period specified by it.]</p> <p>²¹[(5) Any Birth or death Certificate given under any other law immediately before commencement of this Act, can be used to fulfill the purpose of the sub-section (3) and (3a).]</p>
Public Servant	19.	<p>The Registrar shall be deemed to be the Public Servant in the meaning as the expression 'Public Servant' has been used to mean in the section 21 of The Penal Code (Act XLV of 1860) .</p>
Appeal	20.	<p>²²[(1) Any person aggrieved by any order of the Registrar may lodge appeal to the following authorities within 30(thirty) days of the order, such as:-</p> <p>(a) Upazila Nirbahi Officer, against the order of the Chairman or authorized Officer or Member of the Union Parishad;</p> <p>(b) District Magistrate, against the order of the Mayor or Administrator or Officer or Councilor of the Paurashava authorized by him;</p> <p>(c) District Magistrate, against the order of the Executive Officer of the Cantonment Board or any Officer authorised by him;</p> <p>(d) District Magistrate, against the order of the Mayor or Administrator of the City Corporation or any Officer or Councilor authorised by him ; and</p>

		<p>(e) Registrar General, against the order of the Officer authorized by the High Commissioner.</p> <p>(2) Any person aggrieved by any order under sub-section (4) of the section 15 and section 15a, may lodge appeal within 30(thirty) days of the order to the following authorities, such as :-</p> <p>(a) Deputy Commissioner against the order of the Upazila Nirbahi Officer;</p> <p>(b) Registrar General against the order of the Deputy Commissioner; and</p> <p>(c) Secretary, Local Government Division against the order of the Registrar General.]</p>
Penalty	21	<p>(1) Any person violating the provision of this act or the rule made there under shall be punished with fine not exceeding Taka 5000.00(five thousand).</p> <p>(2) Notwithstanding anything contained in the sub-section (1), if any person, for the purpose of birth or death registration, gives false information or gives any such written statement or declaration, which he knows or believes to be false, then that person shall be punished with a fine not exceeding Taka 5000.00(five thousand) or with simple imprisonment not exceeding 1(one) year or with both .</p> <p>(3) Notwithstanding anything contained in the sub-section (1), if any Registrar registers birth or death , despite his knowledge about the false information, written statement or declaration mentioned under sub-section (2), then the concerned Registrar shall be punished with a fine not exceeding Taka 5000.00(five thousand) or with simple imprisonment not exceeding 1(one) year or with both, if does not succeed to prove that that offence has been committed beyond his knowledge or he tried to stop the said offence to the best of his ability]</p>
Filing Case	22.	Any person aggrieved by non-compliance of duties under this Act or the Registrar ²⁴ [or Registrar General] may file case in the court of the Magistrate.
Power of making	23.	The Government, with a view to fulfill the purpose of this Act, may make Rules by notification in the official Gazette.
Repeal and Savings	24.	<p>(1)The Births and Deaths Registration Act, 1873(Bengal Act IV of 1873) is hereby repealed.</p> <p>(2) Provisions of The Births, Deaths and Marriages Registration Act, 1886(Bengal Act VI of 1886) applicable to the Births and Deaths Registration are hereby repealed.</p> <p>(3) Despite annulment under sub-section (1) and (2), all tasks performed or actions taken under the annulled Act and rules shall be deemed to have been performed or taken under this Act.</p>

¹ Clause (b) has been substituted by section 2(a) of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).

² Clause (d) has been substituted by section 2(b) of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).

³ Clause (f) has been substituted by section 2(c) of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).

⁴ Clause (k) has been substituted by section 2(d) of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).

⁵ Clause (l) has been substituted by section 2(e) of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).

⁶ Clause (m) has been substituted by section 2(f) of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).

⁷ The word "and" has been substituted by section 2(g) of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).

⁸ Clause (r) has been substituted by section 2(h) of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).

- ⁹ Clause (s) has been substituted by section 2(h) of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).
- ¹⁰ Section 4 has been substituted by section 3 of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).
- ¹¹ Clause (c) has been substituted by section 4 of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).
- ¹² Clause (7a) has been substituted by section 5 of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).
- ¹³ The number, bracket and word "45(forty five)" has been substituted for the number, bracket and Word "30(thirty)" by section 6 of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).
- ¹⁴ The word "Councillor" has been substituted for the word "Commissioner" by section 7 of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).
- ¹⁵ Section 15 has been substituted by section 8 of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).
- ¹⁶ Section 15a has been substituted by section 9 of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).
- ¹⁷ The word "and" has been repealed by section 10(a) of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).
- ¹⁸ Clauses (gg) and (ggg) have been inserted by section 10(a) of the Births and Deaths Registration (Amendment) Act, 2013(Act 34 of 2013).
- ¹⁹ Sub-section (3a) has been inserted by section 10(b) of the Births and Deaths Registration (Amendment) Act, 2013(Act 34 of 2013).
- ²⁰ Sub-section (4) has been substituted by section 2 of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).
- ²¹ Sub-section (5) has been substituted by section 10(c) of the Births and Deaths Registration (Amendment) Act, 2013(Act 34 of 2013).
- ²² Section 20 has been substituted by section 11 of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).
- ²³ Section 21 has been substituted by section 12 of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).
- ²⁴ The words " or Registrar General" have been inserted after the word "Registrar" by section 13 of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).

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Appendix 2 - Additional Information

This information was provided by email on 19 June 2015 by Khaled Bin Yousuf, Assistant Programmer at the Birth and Death Registration Project, Local Government Division.

Questions

1. **Who is the Registrar** - Article 4 of the Births and Deaths Registration Act sets out who the Registrar is, which is determined by where a person is born, dies or resides permanently. I understand if someone is born in Chittagong CC then their birth should be registered with the Chittagong CC Registrar, but (for example) if someone is born when they are on holiday in Dhaka North CC but their parents (and they will) permanently reside in Chittagong CC will they: a) have to be registered in Chittagong CC b) be registered in Dhaka North CC or c) can be registered in either.

Ans: According to law the person can do their birth registration wither in birth place address or permanent address. Anyone can do their babies birth registration by showing necessary documents if the baby born in holiday . For city corporation the permanent address means if any one live in a place at least 3 years or people migrate here for river erosion or any one purchase property in the particular place.

2. **Which governmental department** - which governmental department is the civil registry (i.e. the Registrars and the Registrar General) located? (i.e. the ministry of interior, ministry of justice, local government, etc)

Ans: The register general appointment is still in under process. Right now the Under the project Director office there are more than 5003 registrar office (Union Parishad, Municipality, City Corporation, Cantonment Board) in country and 52 embassies in abroad who are doing Birth & death registration,

This massive works are done by Birth & Death Registration Project which is under Local Govt. division, MoLGRD, Bangladesh. Hope very soon Gov't will appointment a registrar general and then this work will transfer to that office.

3. **Registrar General** - who is the Registrar General (Article 7(a)) and what are their duties. Is there a law regarding the Registrar General?

Ans: The Government , with a view to fulfill the purpose of this Act, may appoint a Registrar general and necessary number of officers and staff and terms of their services shall be determined by the Government. Some duties are already listed in act and also a set of rule is now under process , which will specifically describe his duty.

4. **Birth Registration fee** - is it correct that registering a birth within 2 years of the birth is free, and registering after 2 years of the birth is Rs 5.00 - Rs 10.00 (based on your website).

Events:	Registrars:	Union Parishad & Municipality	City Corporation & Cantonment Board
Within 2 years of occurrences		Nil	Nil
For every year, after 2 years of occurrences		@ ₳ 5.00	@ ₳ 10.00
For original Birth or Death Certificates (either in English or Bangla)		Nil	Nil
For duplicate copies of Birth or Death Certificates (either in English or Bangla)		@ ₳ 25.00	@ ₳ 25.00
For the correction of any clerical mistake.		@ ₳ 10.00	@ ₳ 10.00

5. **Late registration** - Article 13 concerns late registration and refers to a late fee and prescribed process - how much is the late fee and what is the process. Where are these detailed (i.e. in rules or in a law?) Is it the same across the country?

Ans: The answer regarding fee already given by in question 4.

6. **Documents needed when registering** - Article 5(2) refers to information being submitted to the Registrar when registering a birth. What information / documents are needed to register a birth? For example, mother and father's name and nationality? address?

Ans: "Birth Registration" means recording a person's following information in a register either manually or through online under "Birth and Death Registration Act 2004" :

Name: Full name.

Date of birth: According to Gregorian calendar in the format of dd-mm-yyyy.

Place of birth: Including the name of district.

Sex: male/female.

Father's Name and Nationality: Full name, no need to mention Mr., Late, or any designation.

Mother's Name and Nationality: Full name, no need to mention Mrs., Late, or any designation.

Permanent Address: Generally ancestral address or where lives for more than three years.

Present Address: Not mandatory.

Then issuing a certificate with a unique number containing 17 digits called BRN (Birth Registration Number).

HOW TO CREAT BRN

A 17 digits unique number as BRN is allocated for every person as shown below:

				Geo Code											
#	#	#	#	#	#	#	#	#	#	#	#	#	#	#	#
Year of birth (4)				District Code (2)		R M O	B (2)		C(2)		Sequential number (6)				

- A. RMO: 1 for Union Parishad, 2 for Municipality, 3 for Union parishad where situated Upazila Parishad offices but no municipality, 5 for Cantonment, 7 for enclave, 8 for forest or barren land, 9 for City Corporation and 0 for Embassy.
- B. Upazila Code for Union Parishad, Municipality Code, City Corporation Code, Cantonment Code and Embassy Code.
- C. Union Parishad Code for Union Parishad and Ward Code for Municipality, City Corporation and Cantonment and Consulate code for Embassy.
- D. The Embassy should use 00 in the place of district code.
- Geo Code are derived by Bangladesh Bureau of Statistics.

19-Jun-15

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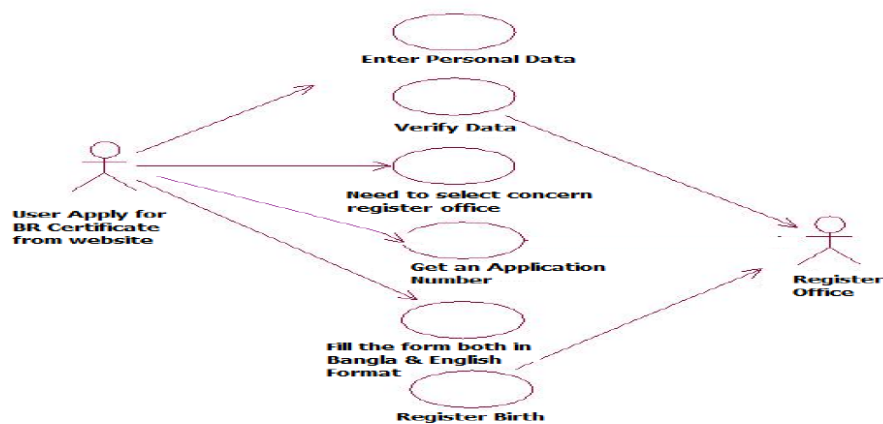
7. **Who should be registered** - is it true that every birth in Bangladesh must be registered, including refugee births, births from single parents, births from foreigners living in Bangladesh, etc?

Ans: Yes. According to law and rules every birth must need to register.

8. **Registration process** - is it correct that births are registered either by submitting a paper application to the Registrar or by completing an online application - and the online application can be completed at the office of the Registrar (ie using a computer there).

Ans: Yes. For your better understanding here I attached a clear picture .

System of Online Birth Application & Registration :



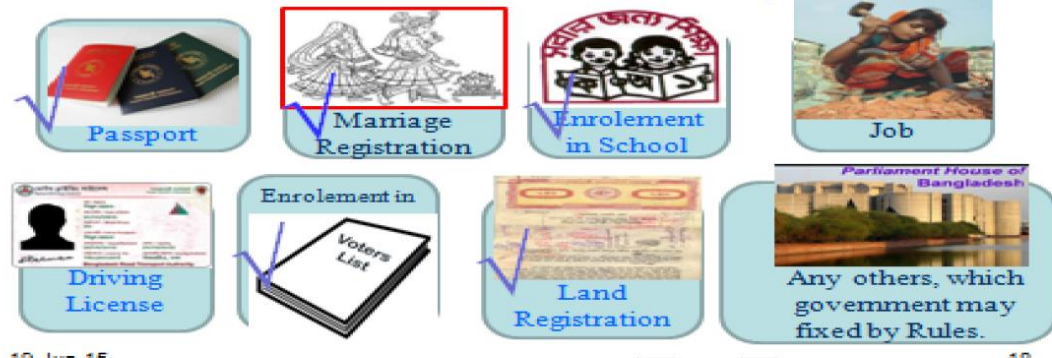
9. **Birth Certificate** - (Article 11) - does everyone get a birth certificate when they register, or is there an additional application process and fee for a birth certificate? what is the process and how much is the fee and where is this set out (i.e. in what rules or in what law?) Is this the same across the country?

Ans: After registration all will get a certificate

The answer regarding fee already given by in question 4.

10. **Evidentiary value of birth certificate** - Article 18 sets out the circumstances where a birth certificate can be used to prove a person's age, and it mentions "in any other case prescribed by the rules". Are there any such rules? I have read that a birth certificate is required to open a bank account, obtain utility connections, obtain a tax ID number, etc. Do you have a translation of these rules or can you let me know when else a birth certificate is required. For example, does a person need a birth certificate to access healthcare (emergency and primary health services) to access social security programmes / cash benefits, or to obtain a primary or secondary school diploma, or to prove their nationality?

- According to Birth & Death Registration Act 2004 uses of birth certificate is mandatory to get:



According to Birth & Death Registration Rules 2006, uses of birth certificate is mandatory to get:



INDIA

QUESTIONNAIRE ON BIRTH REGISTRATION - INDIA

Key Points

- Birth registration in India is compulsory, but the relevant laws are neither widely observed nor enforced.
- Registration within 21 days of the birth is free of charge, while late registration incurs a small fee.
- Birth registration may be required to obtain identity documents in some circumstances, but it is unlikely to be required to access essential services.

Name of official authority in charge of registering a child's birth:

Office of the Registrar General, India ("**ORGI**").⁵⁶ The functions of the Office of the Registrar General are administered by:

- The Registrar General (at the Central/Federal level);
- The Chief Registrar (at the State level);
- District Registrars (for each Revenue District);
- Additional District Registrars (who work under the direct control and supervision of the District Registrars); and
- Registrars for local areas (at the Municipality level).

Where is the civil registry located in the government?

- () Ministry of Justice
- (X) Ministry of Interior - The Ministry of Home Affairs⁵⁷
- () Electoral Agency
- () Independent Entity
- () Other

Law: The relevant sections of the Registration of Births and Deaths Act 1969 refers to the "Central Government", but does not specify which Government Ministry or Minister would be responsible.⁵⁸

⁵⁶ Sections 3, 4, 5, 6 & 7, Registration of Births and Deaths Act 1969 (Act No. 18 of 1969).

⁵⁷ Ministry of Home Affairs, "Attached / Subordinate Offices", available at <http://www.mha.nic.in/attached>; see also South Asia Terrorism Portal, "Mandate and Organisational Structure of the Ministry of Home Affairs", available at <http://www.satp.org/satporgtp/countries/india/document/papers/MHA09-10/1.pdf>.

The website of the Ministry of Home Affairs shows that the Ministry of Home Affairs is responsible for matters relating to birth registration.

Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?

India applies a combination of both, but largely follows *jus sanguinis*.⁵⁹

According to section 3 of the Citizenship Act 1955 (as amended in 1986, 1992, 2003, 2005 and 2015) ("**Citizenship Act**"):⁶⁰

Citizenship by birth

- A person born in India on or after 26 January 1950, but before 1 July 1987, shall be a citizen by birth, irrespective of the nationality of his parents;
- A person born in India on or after 1 July 1987, but before 3 December 2004, shall be a citizen of India by birth, if either of his parents is a citizen of India at the time of his birth;
- A person born in India on or after 3 December 2004 shall be a citizen of India by birth, if both his parents are citizens of India or one of the parents is a citizen of India and the other is not an illegal migrant at the time of his birth. For the purposes of the Citizenship Act, an illegal migrant means a foreigner who has entered into India (i) without a valid passport or other travel documents; or (ii) with a valid passport or other travel documents, but remains in India beyond the permitted period of time.⁶¹

According to section 4 of the Citizenship Act:

Citizenship by descent

- A person born outside India on or after 26 January 1950, but before 10 December 1992, is a citizen of India by descent, if his father was a citizen of India by birth at the time of his birth. In cases where the father was a citizen of India by descent only, that person shall not be a citizen of India unless his birth is registered at an Indian Consulate within one year from the date of birth. Where that one year period has expired, that person will only be a citizen of India where permission has been granted by the Central Government.
- A person born outside India on or after 10 December 1992, but before 3 December 2004, shall be a citizen of India if either of his parents was a citizen of India by birth at the time of his birth. In cases where either of the parents was a citizen of India by descent, that person shall not be a citizen of India unless his birth is registered at an Indian Consulate within one year from the

⁵⁸ See, for example, section 3, Registration of Births and Deaths Act 1969. Also see the website of the Ministry of Home Affairs, op.cit.

⁵⁹ Ministry of Home Affairs Foreigners Division, "Acquisition of Indian Citizenship", available at <http://indiancitizenshiponline.nic.in/acquisition1.htm>.

⁶⁰ Citizenship Act 1955 (as amended in 1986, 1992, 2003, 2005 and 2015).

⁶¹ Section 2(b), Citizenship Act 1955.

date of birth. Where that one year period has expired, that person will only be a citizen of India where permission has been granted by the Central Government.

- A person born outside India on or after 3 December 2004 shall not be a citizen of India unless the parents declare that the minor does not hold a passport of another country and his birth is registered at an Indian Consulate within one year of the date of birth. Where that one year period has expired, that person will only be a citizen of India where permission has been granted by the Central Government.

The Indian Constitution ("**Constitution**")⁶² also has some provisions dealing with citizenship rather than nationality. Article 5 of the Indian Constitution states that those meeting the following criteria shall be citizens of India:

- a person domiciled in India and born in India;⁶³
- a person domiciled in India (but not born in India) and either of whose parents was born in the territory of India; or
- a person domiciled in India (but not born in India) but who has been ordinarily resident in India for not less than five years immediately preceding the commencement of the Constitution.

Is there any legal obligation to register children?

Yes (X) No ()

If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.

The Registration of Births and Deaths Act 1969 (Act No. 18 of 1969) ("**Registration Act**") is federal legislation that governs the registration of births and deaths in India. Sections 8, 9 and 10 of the Registration Act make it compulsory to register live births as well as still births. Who is required to notify the Registrar of the birth will depend on the location of the birth.

Children born outside India

Section 4(1) of the Citizenship Act provides for citizenship by descent, i.e. circumstances under which a person despite being born outside India will be a citizen of India. The Citizenship Rules 2009 ("**Citizenship Rules**") state that in the case of a child born outside India, the birth can be registered at the Indian Consulate of the country where such a child was born. A declaration stating that the child does not hold the passport of any other country will have to be given.

⁶² Constitution of India, available at <http://indiacode.nic.in/coiweb/welcome.html> or <http://india.gov.in/my-government/constitution-india>.

⁶³ In the case of *Kirandeep Kaur v Regional Passport Office and Ors* (W.P.(C) 8422/2005 & CM No. 6214/2005), which concerned section 3 of the Citizenship Act 1955, the High Court of Delhi stated inter alia that "citizenship and domicile are distinct legal concepts and it is possible for a citizen of Country A to be domiciled in Country I" and "The word 'domicile' has not been defined in the Constitution or in the Citizenship Act 1955. In the ordinary legal parlance domicile can be defined as an intention to reside in a particular territory which is not transient or for a limited period or purpose only".

In addition, section 20 of the Registration Act provides that the Registrar General shall cause to be registered information as to births of citizens of India outside India received by him under the rules relating to the registration of such citizens at the Indian Consulate made under the Citizenship Act. Every such registration will be deemed to have been duly made under the provisions of the Registration Act.

In the case of a child born outside India in respect of whom information has not been received (under the rules of registration under the Citizenship Act), if the parents of the child return to India with a view to settling therein, they may at any time, within 60 days from the date of arrival of the child in India, get the birth of the child registered under the Registration Act, in the same manner as if the child was born in India. If such a child is not registered within the 60 day period, the provisions under section 13 of the Registration Act relating to delayed registration of births and deaths will apply.

Does the child need to be registered within a certain amount of time from birth?

Yes (X) No ()

If yes, by when?

A child needs to be registered within 21 days of birth. This time period has been provided for in the Model Registration of Births and Deaths Rules 1999 ("**Model Rules**").⁶⁴ The Model Rules were enforced with effect from 2000 and were required to be implemented by every State Government of India.

Is a paper certificate issued as a result of the registration?

Yes (X) No ()

Under section 12 of the Registration Act the Registrar must provide the informant with an extract of particulars from the register relating to births and deaths, i.e. a certificate, as soon as the registration of a birth or death has been completed.

Since this requirement has been prescribed in the federal legislation, the Registrar or any other authorised officer at the State level, district level and local municipality/panchayat level must comply with it. The Model Rules provide that the extract / certificate should be provided in Form 5.⁶⁵

Different by region/area

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

⁶⁴ Model Registration of Births and Deaths Rules 1999, available at http://crsorgi.gov.in/web/uploads/download/Births_and_Deaths_Rules_1999.pdf.

⁶⁵ Rule 8, Model Rules.

Is there a separate fee for the issuance of a paper certificate?

Yes () No (X)

In accordance with section 12 of the Registration Act, the first copy of such an extract will be issued free of charge. All additional copies will be issued at a fee of 5 rupees (approximately USD 0.08)⁶⁶ per copy.⁶⁷

Different by region/area

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

Is there a Birth Registration Fee

Yes () No (X) Conditional ()

There is no birth registration fee, if the birth is registered within the specified period, which, according to the Model Rules, is 21 days.

If yes, amount in USD:

Not applicable.

If it's conditional, please provide reasons/cases for exemption.

Not applicable.

Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration')

Yes (X) No ()

Section 13 of the Registration Act makes provision for delayed registration of births and deaths.

"13.(1) Any birth of which information is given to the Registrar after the expiry of the period specified therefore, but within thirty days of its occurrence, shall be registered on payment of such late fee as may be prescribed.

(2) Any birth or death of which delayed information is given to the Registrar after thirty days but within one year of its occurrence shall be registered only with the written permission of the prescribed authority and on payment of the prescribed fee and the production of an affidavit made before a notary public or any other officer authorised in this behalf by the State Government.

⁶⁶ All conversions were made at the time of writing the report using a commercial exchange rate, available at www.xe.com.

⁶⁷ Rule 13, Model Rules.

(3) Any birth or death which has not been registered within one year of its occurrence, shall be registered only on an order made by a Magistrate of the first class or a Presidency Magistrate after verifying the correctness of the birth or death and on payment of the prescribed fee.

(4) The provisions of this section shall without prejudice to any action that may be taken against a person for failure on his part to register any birth or death within the time specified therefor and any such birth or death may be registered during the pendency of any such action".

The late fee for an application within 30 days of birth under section 13(1) is prescribed in Rule 9(1) of the Model Rules and stands at 2 rupees.

The late fee for an application within one year of birth under section 13(2) is prescribed in Rule 9(2) of the Model Rules and stands at 5 rupees.

The late fee for an application under section 13(3) is prescribed in Rule 9(3) of the Model Rules and stands at 10 rupees.

If yes, amount in USD:

USD 0.03- 0.16 (2-10 rupees above).

Requirements for Birth Registration (tick what applies):

Identification of Child's Father (X) His Nationality ()

Identification of Child's Mother (X) Her Nationality ()

Marital Status ()

Rule 5 of the Model Rules, prescribes that information given to the Registrar about a live birth must be made on Form 1.⁶⁸

Are Stateless / Refugee Births Registered?

Yes (X) No ()

India has acceded to or ratified a number of international human rights instruments, one such instrument being the 1989 Convention on the Rights of the Child.⁶⁹ Article 2 of the Convention requires that:

"State parties shall respect and ensure the rights set forth in the Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, political or other opinion, national, ethnic or social origin, property, disability, birth or other status".

⁶⁸ See, for example, the form published by the Municipal Corporation of Delhi (Health Department), available at http://mcdonline.gov.in/tri/sdmc_mcdportal/dwdforms/birth.pdf.

⁶⁹ Convention on the Rights of the Child, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>.

In relation to birth registration, Article 7 of the Convention requires that:

“The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and the right to as far as possible, know and be cared for by his parents. (2) State Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular, where the child would otherwise be stateless.”

Domestic legislative provisions upholding the above obligations include:

- Section 3 of the Citizenship Act states that a person born in India on or after 26 January 1950, but before 1 July 1987, shall be a citizen of India by birth irrespective of the nationality of his parents. This means that refugee children born in India before 1987 are deemed citizens of India by birth.
- Section 7(2) of the Registration Act provides that:

“Every registrar shall, without fee or reward, enter in the register maintained for the purpose all information given to him under section 8 or section 9 and shall also take steps to inform himself carefully of every birth and of every death which takes place in his jurisdiction and to ascertain and register the particulars required to be registered”.

Available guidance appears to suggest that section 7(2) of the Registration Act provides for the registration of every birth and death irrespective of nationality and the birth of the child of a foreign national may be registered by the local Registrar and a birth certificate to this effect may be issued under section 12 of the Registration Act. However, section 20(1) of the Registration Act (special provision as to the registration of births and deaths of citizens outside India) is not applicable in such cases. This is further supported by the fact that Form 1 which is the form prescribed by the Model Rules for the registration of a birth does not require the applicant to mention the 'nationality' of the parents. The only details required are:

- 1) the child's date of birth;
- 2) the child's sex;
- 3) the name of the child, if any;
- 4) the name of the parents;
- 5) the permanent address of the parents and the address of the parents at the time of birth of the child; and
- 6) the child's place of birth.

In addition, the Indian judiciary recognises the lack of a domestic legislative framework upholding India's international obligations and has been trying through its decisions to bridge the gap between domestic law and India's obligations under international law. In *National Human Rights Commission v State of Arunachal Pradesh*⁷⁰ the Supreme Court of India stated that Chakma⁷¹ refugee children born

⁷⁰ *National Human Rights Commission v. State of Arunachal Pradesh* (1996) 1 SCC 742.

in the State of Arunachal Pradesh were entitled to Indian citizenship by birth under section 3 of the Citizenship Act 1955, prior to the amendment made to it in 1987 requiring one of the parents to be an Indian citizen.⁷²

Are children of single parents registered?

Yes (X) No ()

Section 7(2) of the Registration Act states that every Registrar shall take steps to inform himself carefully of every birth that takes place in his jurisdiction and to ascertain and register the particulars required to be registered. Therefore, the procedure for registering children of single parents is the same.

Are all children born in the territory registered?

Yes (X) No ()

Section 7(2) of the Registration Act states that every Registrar shall take steps to inform himself carefully of every birth that takes place in his jurisdiction and to ascertain and register the particulars required to be registered.

If no, please provide list of those not registered

Not applicable.

Other Requirements (if none, put n/a)

Not applicable.

Registration System Set-up

Electronic Submission () Paper Submission () Both (X) - electronic submission only in New Delhi

The following observation is made based on a study of the four major metropolitan cities of India (New Delhi, Mumbai, Kolkata and Chennai); the observation does not cover other administrative regions of India. Currently only the Municipal Corporation of Delhi accepts electronic submission of birth registration details. This is done through the On Line Institutional Registration of Births and Deaths scheme ("OLIR").⁷³

According to the Ministry of Home Affairs, applications to register a minor child born outside India at an Indian consulate under section 4(1) of the Citizenship Act can be made online for the purposes of

⁷¹ The Chakma community is a minority Buddhist tribe from Bangladesh.

⁷² V. Vijayakumar, "Protection of Refugee Children in India", *Refuge: Canada's Journal on Refugees*, Volume 20 No.2 (2002), available at <http://pi.library.yorku.ca/ojs/index.php/refuge/article/view/21254>.

⁷³ North Delhi Municipal Corporation, "Registration and Issue of Birth and Death Certificates", available at <http://111.93.47.72/csbndmc/rbd/>.

acquiring Indian citizenship.⁷⁴ However, this is not purely an electronic submission as hard copies of the application (along with supporting documents) have to be submitted to the designated Indian consulate responsible for Indians in the country where the child was born.

Location of registration facilities

The following information was taken from official Indian Government websites.⁷⁵

Capital city Yes (X) No ()

Other cities Yes (X) No ()

Villages Yes (X) No ()

Other _____

In accordance with section 7 of the Registration Act, Registrars and Sub-Registrars are appointed for each local area, comprising the area within the jurisdiction of a municipality, panchayat or other local authority. Registrars may in turn, with the prior approval of the Chief Registrar, appoint Sub-Registrars and assign to them any or all of their powers and duties in relation to specified areas within their respective jurisdictions.

Registrars and Sub-Registrars are separately appointed for rural and urban areas.

Rural Areas - The following have been appointed as Registrars of Births and Deaths:

- Panchayat Secretaries / Karmi / Gram Sevak in 15 States and three Union Territories.⁷⁶ These states are: Andhra Pradesh, Bihar, Chhattisgarh, Goa, Gujarat, Himachal Pradesh, Jharkhand, Kerala, Madhya Pradesh, Maharashtra, Rajasthan, Tripura, Uttar Pradesh, Uttarakhand and West Bengal. The three Union Territories are Daman & Diu, Dadra & Nagar Haveli and Puducherry.
- Medical Officer in Charge or equivalent in seven States and three Union Territories. These states are Assam, Haryana, Meghalaya, Orissa, Sikkim and Manipur (partly). The three Union Territories are Andaman and Nicobar Islands, Delhi and Lakshadweep.
- Village Accountants / Village Administrative Officers in two States. The two States are Karnataka and Tamil Nadu.
- Station House Officer / Police officers in Jammu and Kashmir and in the Union Territory of Chandigarh.
- School Teachers in Mizoram and Nagaland.
- Circle Officer / Village Level workers in Arunachal Pradesh.

⁷⁴ Ministry of Home Affairs Foreigners Division, "Online Indian Citizenship", available at <http://indiancitizenshiponline.nic.in/>.

⁷⁵ Office of the Registrar General and Census Commissioner of India, "Frequently Asked Questions", available at <http://www.censusindia.gov.in/2011-FAQ/FAQ-CRS.html>.

⁷⁶ Union Territory is a type of administrative division in the Republic of India which is ruled directly by the Union / Federal Government as opposed to States that are ruled by the elected State governments.

- Urban Areas - The Municipal Health Officer, Health Officer or Equivalent Officers are appointed as Registrar of Births and Deaths.

Birth Registration is required for:

Our research suggests that, whilst a legislative framework exists in India requiring births within its jurisdiction to be registered with designated public authorities, in many areas these laws are neither widely observed nor enforced. As a result, many citizens do not possess a birth certificate. One consequence of this is that public bodies do not always have accurate records of the identity of those who access public services such as health and education. Therefore, whilst much of the national legislation states that a birth certificate may be produced as evidence of identity or date of birth, it is not required to be produced in order to access the majority of public services.

Our research suggests that the lack of observance and enforcement of existing laws may have a number of adverse consequences. First, there are regional disparities in relation to which documents the local administrative authorities stipulate are necessary for accessing public services in their area, or which documents they tend to accept in practice. These disparities mean that citizens are often confused as to what documents they are required to produce in order to access education, health or other services. In some cases, citizens may not attempt to access services in the mistaken belief that they are required to possess a birth certificate. In addition, given that birth certificates are not always required, some parents do not regard the acquisition of a birth certificate as essential to their child's future life chances. This means that rates of birth registration remain low, despite the legal obligation to register births.

Access to education

Yes () No (X) Law *The Constitution of India and the Right of Children to Free and Compulsory Education Act 2009.*

Article 21A of the Constitution requires the State to provide free and compulsory education to all children between the ages of six and 14 inclusive. Birth certificates are not formally required at any stage of the education system as a matter of national policy.

However, section 14(1) of the Right of Children to Free and Compulsory Education Act 2009 ("**Right to Free Education Act**")⁷⁷ requires the age of a child to be determined for the purposes of admission to elementary education. Section 14(1) states that this determination shall be made on the basis of a birth certificate issued in accordance with the Births, Deaths and Marriages Registration Act 1886 or on the basis of such other document, as may be prescribed.⁷⁸ Therefore, while a determination of a child's age should be made prior to that child's access to elementary education, it is not required that this is done on the basis of a birth certificate. Furthermore, section 14(2) of the Right to Free

⁷⁷ Right of Children to Free and Compulsory Education Act 2009.

⁷⁸ Whilst the Registration of Births and Deaths Act 1969 Act is the current principal legislation, it does refer to the Births, Deaths and Marriages Registration Act 1886 and contains a specific non-derogation provision to ensure that the 1969 Act will never be construed against the provisions of the 1886 Act.

Education Act states that no child shall be denied admission to a school for lack of proof of age. Therefore, it cannot be said that a birth certificate is a 'requirement' for access to education.

However, according to research, many individuals are under the impression that a birth certificate is required for accessing education.⁷⁹ In addition, Plan USA's research on this issue uncovered examples of children being unable to enrol in school due to a lack of a birth certificate.⁸⁰

Obtaining a primary school diploma

Yes () No (X) Law _____

No legislative provisions were found specifically requiring a birth certificate to obtain a primary school diploma.

Obtaining a secondary school diploma

Yes () No (X) Law _____

No legislative provisions were found specifically requiring a birth certificate to obtain a secondary school diploma. In addition, it is not clear whether the student sitting exams is required to provide personal information, such as date of birth, to acquire a diploma, or whether the school does this on behalf of students.

The Council for the Indian School Certificate Examinations ("**Examinations Council**")⁸¹ conducts examinations for the Indian Certificate of Secondary Education ("**ICSE**") and Indian School Certificate ("**ISC**"). These examinations may be taken after ten and 12 years of studies respectively. Their website sets out information relating to this exam and states that where an exam candidate requires a correction to be made in their name, their parent's name or their date of birth on an ICSE or ISC certificate then one of the documents they must send to the Examinations Council is a duly attested copy of their birth certificate.

Access to health (emergency services only)

Yes () No (X) Law _____

No legislative provisions requiring a birth certificate to access emergency services were identified.

Access to health (primary health services only)

Yes () No (X) Law _____

No legislative provisions requiring a birth certificate to access primary health services were identified.

Access to health (all services)

Yes () No (X) Law _____

⁷⁹ Kara Aplan, Brad Blitz, Carolyn Hamilton, Mary Lagaay, Rajith Lakshman and Elizabeth Yarrow, "Birth Registration and Children's Rights A Complex Story", May 2014, p.49, available at <http://www.planusa.org/docs/reports/2014-birth-registration-research-full-report.pdf>.

⁸⁰ Kara Aplan et al (2014), op. cit. p.49.

⁸¹ Council for the Indian School Certificate Examinations, available at <http://cisce.org/Default.aspx>.

While no legislative provisions were identified requiring a birth certificate to access health services, the Indian Government has adopted various policies aiming to increase the number of children covered by health programmes.

Paragraph 3 of the National Policy for Children 1974 ("**1974 Children Policy**")⁸² states that the Indian Government will adopt measures to ensure that all children are covered by a comprehensive health programme. In addition, paragraph 4.2 of the National Policy for Children 2013 ("**2013 Children Policy**")⁸³ states that the State is committed to ensuring equitable access to comprehensive and essential, preventative, promotive [sic], curative and rehabilitative health care, of the highest standard, for all children before, during and after birth, and throughout the period of their growth and development. Paragraph 4.4(vi) of the 2013 Children Policy states that the State shall take all necessary measures to provide universal and affordable access to services for prevention, treatment, care and management of neo-natal and childhood illnesses and protect children from all water borne, vector borne, blood borne, communicable and other childhood diseases.

The National Health Policy 2002⁸⁴ outlined one of its goals as being to increase utilisation of public health facilities from the then level of less than 20% to more than 75% by 2010.

Access to social security programmes / cash benefits

Yes () No () Unclear (X) Programme name _____ Law _____

The Unorganised Workers Social Security Act 2008 ("**Unorganised Workers Act**")⁸⁵ concerns the entitlement of unorganised workers to suitable welfare schemes on matters relating to life and disability cover, health and maternity benefits, old age protection and any other benefit as may be determined by the Central Government. It also contains provisions relating to eligibility in respect of the State Governments' concerns - provident funds, employment injury benefit, housing, educational schemes for children, skills upgrades for workers, funeral assistance and old age homes.

Chapter V of the Unorganised Workers Act concerns registration for these benefits and section 10 sets out eligibility criteria for registration. Unorganised workers who are above 14 years old and make a self-declaration that they are an unorganised worker will be eligible for registration. Section 10(2) states that those who fulfil this criteria should make an application "*in the prescribed form to the District Administration for registration*". However, while the prescribed form is not set out in the Unorganised Workers Act, section 13(2)(e) gives Central Government the power to make rules which provide for the form for making the application under section 10(2). It has not been possible to locate a

⁸² Department of Social Welfare, "National Policy for Children", 22 August 1974, available at http://www.childlineindia.org.in/CP-CR-Downloads/national_policy_for_children.pdf.

⁸³ Ministry of Women and Child Development, "National Policy for Children 2013", 26 April 2013, available at <http://www.childlineindia.org.in/pdf/The-National-Policy-for-Children-2013.pdf>.

⁸⁴ Ministry of Health and Family Welfare, "National Health Policy 2002", p. 23, available at http://www.childlineindia.org.in/CP-CR-Downloads/National_Health_policy_2002.pdf.

⁸⁵ The Unorganised Workers' Social Security Act 2008, No. 33 of 2008, available at http://www.prsindia.org/uploads/media/vikas_doc/docs/1251881279~~The%20Unorganised%20Workers%20Social%20Security%20Act,%202008.pdf.

copy of these rules. Therefore, it is not known whether a birth certificate is required as part of the prescribed form and ultimately for accessing the social security benefits.

The Indian Government has established a National Social Assistance Programme which is composed of five sub-schemes: the Indira Gandhi National Old Age Pension Scheme; the Indira Gandhi National Widow Pension Scheme; the Indira Gandhi National Disability Pension Scheme; the National Family Benefit Scheme; and the Annapurna Scheme.⁸⁶ These schemes entitle those in the “Below Poverty Line” category to receive monetary compensation or food.

Individuals are required to complete an application form to apply for the National Social Assistance Programme. A model form is contained in Annexe III of the Indian Government's Programme Guidelines.⁸⁷ This form requires the applicant to give their date of birth together with proof. It states in paragraph 3.1.3 of the Programme Guidelines that a birth certificate or school certificate may be relied on as proof of age. In their absence “a ration card or EPIC [Electoral Photo Identity Card] may be considered instead. If there is no valid document, any Medical Officer of any government hospital may be authorized to issue the age certificate”.

Nationality

Yes (X) - in some circumstances No () Law *Citizenship Act*.

The Citizenship Act states the different methods by which Indian citizenship can be acquired. The Citizenship Rules provide for the forms and supporting documents required to be submitted as part of the application for acquiring citizenship.

1. Citizenship by birth according to section 3 of the Citizenship Act. There are no requirements specified in the Citizenship Act or Citizenship Rules regarding birth registration.
2. Citizenship by descent, whereby children born to Indian parents outside of India can acquire Indian citizenship on having their birth registered at the Indian Consulate responsible for Indians in the country where such a child was born under section 4(1) of the Citizenship Act. The Citizenship Rules prescribe Form I for making an application for registration of birth of a minor child at an Indian Consulate under section 4(1) of the Citizenship Act. A copy of the birth certificate of the child (issued by the Government of the country where such a child is born) is one of the supporting documents required for making the above application.⁸⁸
3. Citizenship by registration - Citizenship of India can be acquired by registration by:
 - (i) A person of Indian origin who has ordinarily been resident in India for seven years before making an application for registration. The Citizenship Rules prescribe Form II for making

⁸⁶ Indian Government, "National Social Assistance Programme: Programme Guidelines", October 2014, p.6, available at http://nsap.nic.in/Guidelines/nsap_guidelines_oct2014.pdf.

⁸⁷ Annexe III, National Social Assistance Programme Guidelines.

⁸⁸ Rule 3, Citizenship Rules.

such an application and one of the supporting documents required to be submitted is "Evidence of the date of birth of the parents viz. a copy of the passport or birth certificate".⁸⁹

(ii) A person of Indian origin who is ordinarily resident in any country or place outside India. There are no requirements specified in the Citizenship Rules.

(iii) A person who is married to a citizen of India and is ordinarily resident in India for seven years before making an application for registration. The Citizenship Rules prescribe Form III for making the above application and one of the supporting documents required to be submitted as part of the application is "*Evidence of his/her husband's/wife's Indian nationality viz. a copy of Indian passport or birth certificate*".⁹⁰

(iv) A minor child of persons who are citizens of India. The Citizenship Rules prescribe Form IV for making the above application and one of the supporting documents required to be submitted as part of the application is "*Proof of Indian citizenship of both the parents viz. copy of Indian passport / birth certificate*".⁹¹

(v) A person of full age and capacity whose parents are registered as citizens of India. The Citizenship Rules prescribe Form V for making the above application. There are no requirements to submit a birth certificate in support of the application.⁹²

(vi) A person of full age and capacity who was, or either of whose parents was, earlier a citizen of independent India and has been residing in India for one year immediately before making an application for registration. The Citizenship Rules prescribe Form VI for making the above application and states that one of the supporting documents required to be submitted as part of the application is "*Evidence that the applicant or either of his parents was a citizen of independent India, viz. copy of passport or birth certificate*".⁹³

(vii) A person of full age and capacity who has been registered as an overseas citizen of India for five years, and who has been residing in India for one year before making an application for registration. The Citizenship Rules prescribe Form VII for making the above application. There are no requirements to submit a birth certificate in support of the application.⁹⁴

4. Citizenship by naturalisation - The Citizenship Rules prescribe Form VIII for making an application for citizenship by naturalisation, but there are no requirements to submit a birth certificate in support of the application.⁹⁵

⁸⁹ Rule 4, Citizenship Rules.

⁹⁰ Rule 5, Citizenship Rules.

⁹¹ Rule 6, Citizenship Rules.

⁹² Rule 7, Citizenship Rules.

⁹³ Rule 8, Citizenship Rules.

⁹⁴ Rule 9 Citizenship Rules.

⁹⁵ Rule 10, Citizenship Rules.

Identification card

Yes (X) - in some circumstances No () Law *No specific law. See explanation below.*

The Indian Department of Food and Civil Supplies issues ration cards to all citizens, although it is not compulsory to possess one. The ration card functions as a proof of identity document and may be held individually or collectively as a family. The card provides official proof of address⁹⁶ and is required to access certain social benefits under the Public Distribution System, such as food and fuel.

While a birth certificate is not required in an application for a new ration card, where a family wish to add a child to their ration card following its birth, they must produce the birth certificate of the child to do so.⁹⁷

Passport

(X) - in some circumstances No () Law *Passport Rules 1980.*⁹⁸

Whether a birth certificate is necessary for the issuance of a passport depends on the age of the applicant. For those who were born on or after 26 January 1989, it is obligatory to provide a birth certificate as proof of date of birth.

The Passport Act 1967⁹⁹ provides for the issue of passports and travel documents. No specific provisions were found in the 1967 Act requiring a birth certificate to be provided for the issuance of a passport, however, section 24 of the 1967 Act gives Central Government the power to make rules for the purposes of the 1967 Act.

Schedule III of The Passport Rules 1980 contains a blank Passport Application Form ("**Passport Form**") which sets out the information and documentary proof which must be provided by an individual applying for a passport. Part 4 of the Passport Form requires the applicant to detail their date of birth, together with documentary proof. Part 5 of the Passport Form requires the applicant to detail the place of their birth, together with documentary proof. Section III of the Passport Form sets out guidelines for filling out the application form. According to these guidelines, the date of birth should be written "*as shown in the birth certificate issued by Municipal / Government Authorities*". Section IV (A)(1)(b) of the guidelines provides a list of documents, one of which must be attached as documentary proof of the applicant's date of birth. These are:

- A birth certificate issued by a Municipal Authority or district office of the Registrar of Births and Deaths;

⁹⁶ Ration Card, "Online Information on Ration Card", available at <http://www.rationcard.org/types-of-ration-cards.htm>.

⁹⁷ Indian Government, "Apply for Ration Card: Tripura", available at http://www.archive.india.gov.in/howdo/service_detail.php?formid=389&service=7.

⁹⁸ The Passports Rules 1980, available at http://www.passportindia.gov.in/AppOnlineProject/pdf/Passport_Rules_1980.pdf.

⁹⁹ The Passports Act 1967, No. 15 of 1967 (24 June 1967), available at http://www.passportindia.gov.in/AppOnlineProject/pdf/passports_act.pdf.

- Certificate stating the date of birth issued by the school last attended by the applicant or any other recognised educational institution; or
- An affidavit sworn before a Magistrate or Notary stating the date and place of birth.
- However, in the case of applicants born on or after 26 January 1989, only a birth certificate issued by the Municipal Authority or the Office of the Registrar of Births & Deaths is acceptable.

Other (Please specify e.g. enrolment for social protection programme/ food bank)

See response in "Identification card" section, otherwise no other specific services have been identified for which citizenship is a prerequisite.

References

Legislation Reviewed:

- Citizenship Act 1955;
- Citizenship Rules 2009;
- Constitution of India;
- Delhi Registration of Births and Deaths Rules 1999;
- Model Registration of Births and Deaths Rules 1999;
- Passports Act 1967;
- Passports Rules 1980;
- Registration of Births and Deaths Act 1969;
- Right of Children to Free and Compulsory Education Act 2009;
- Tamil Nadu Registration of Births and Deaths Rules 2000;
- Unorganised Workers' Social Security Act 2008.

Policies Reviewed:

- National Health Policy 2002;
- National Policy for Children 1974;
- National Policy for Children 2013;
- National Social Assistance Programme Guidelines 2014.

International Treaties Reviewed:

- Convention on the Rights of the Child, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>
(see also the ratification table available at https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=iv-11&chapter=4&lang=en)

Case Law Reviewed:

- *National Human Rights Commission v. State of Arunachal Pradesh* (1996) 1 SCC 742;
- *Kirandeep Kaur v Regional Passport Office and Ors* (W.P.(C) 8422/2005 & CM No. 6214/2005).

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http://www.childinfo.org/files/birthregistration_Digestenglish.pdf

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- Website of the Municipal Corporation of Greater Mumbai, available at http://www.mcgm.gov.in/irj/portal/anonymous/qlhealth?guest_user=english#
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INDONESIA

QUESTIONNAIRE ON BIRTH REGISTRATION - INDONESIA

Key Points

- Births in Indonesia should be registered with 60 days.
- Birth certificates are issued free of charge.
- Birth registration is required to obtain the compulsory national identity card, but may or may not be required to access other public services.

Name of official authority in charge of registering a child's birth:

The official authority in charge of registering a child's birth is the Department of Population and Registration. This department operates at a provincial government level. At the district level this is managed by the Office of Civil Registration/Civil Registration Office.¹⁰⁰

Where is the civil registry located in the government?

- () Ministry of Justice
- (X) Ministry of Interior - Ministry of Home Affairs¹⁰¹
- () Electoral Agency
- () Independent Entity
- () Other

Law: Law No. 23 of 2002 on Child Protection.

Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?

Citizenship is governed by Law No. 12 of 2006 on Citizenship of the Republic of Indonesia ("**Citizenship Law**").¹⁰²

¹⁰⁰ Article 19, Law No. 37 of 2007, which amends Law No. 23 of 2006 on Population Administration.

¹⁰¹ Article 28(1) Law No. 23 of 2002 on Child Protection. English translation available at http://www.internationalresourcecentre.org/en_X2/Indonesia_Law_on_Child_Protection.pdf.

¹⁰² Law No. 12 of 2006 on Citizenship of the Republic of Indonesia. English translation available at <http://www.refworld.org/docid/4538aae64.html>.

The explanatory notes to the Citizenship Law¹⁰³ state that it combines both principles of *jus sanguinis* and *jus soli* and does not recognise dual citizenship or statelessness. However, dual citizenship is allowed to children by way of an exception.

The key provisions of the Citizenship Law are Articles 4, 5 and 6. Article 4 lists the persons who are considered a citizen of the Republic of Indonesia.

Article 4

"A Citizen of the Republic of Indonesia is:

- (1) All persons whom by law and/or based on agreements between the Government of the Republic of Indonesia and other countries prior to the application of this Decree have already become Citizens of the Republic of Indonesia;*
- (2) Children born through legal wedlock from an Indonesian father and mother;*
- (3) Children born through legal wedlock from an Indonesian father and an alien mother;*
- (4) Children born through legal wedlock from an alien father and an Indonesian mother;*
- (5) Children born through legal wedlock from an Indonesian mother and a stateless father or whose country does not provide automatic citizenship to their offspring;*
- (6) Children born within 300 days after the father has passed away, under legal wedlock, and whose father is an Indonesian citizen;*
- (7) Children born out of legal wedlock from an Indonesian mother;*
- (8) Children born out of legal wedlock from an alien mother who is claimed by the Indonesian father as his natural child and such claim is declared before the child reaches the age of 18 (eighteen) or before the child has married;*
- (9) Children born in Indonesian territory whose parents are of undetermined citizenship at the time of the child's birth;*
- (10) Children newly born and found in Indonesian territory and whose parents are undetermined;*
- (11) Children born in Indonesian territory whom at the time of birth both parents were stateless or whose whereabouts are undetermined;*
- (12) Children born outside the Rep. of Indonesia from an Indonesian father and mother whom due to law prevailing in the country of birth automatically provides citizenship to the child;*
- (13) Children born from a father and mother who was granted citizenship and died before the parents had sworn their allegiance."*

Article 5 of the Citizenship Law adds that:

¹⁰³ Explanation to Law No. 12 of 2006 on Citizenship of the Republic of Indonesia. English translation available at <http://www.refworld.org/docid/4538aae64.html>.

- children of Indonesian citizens born out of wedlock, under the age of 18 and unmarried, who are not legally adopted by their alien (i.e. non-Indonesian) father; and
 - Indonesian children under the age of five who are legally adopted by foreign citizens through legal proceedings,
- will continue to be considered as citizens of the Republic of Indonesia.

Article 6 states that where certain provisions of Article 4 and Article 5 result in dual citizenship, upon reaching the age of 18, or upon marriage, the child must choose one citizenship. Such decisions must be made in writing and forwarded to the relevant officials attaching "*such documents as determined by regulations*". This decision must be made within three years of the child reaching the age of 18 or marrying.

Is there any legal obligation to register children?

Yes (X) No ()

If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.

Article 27(1) of Law No. 23 of 2006 on Population Administration¹⁰⁴ (as amended by Law No. 24 of 2013)¹⁰⁵ provides that every birth must be reported to the local 'Implementing Agency' no later than 60 days following the birth. Article 1(7) explains that an 'Implementing Agency' is the "*apparatus of regency/municipal governments responsible for and authorized to provide services in population administration affairs*". The Elucidation of Law No. 24 of 2013 states that the local Implementing Agency is that at which residents are domiciled.¹⁰⁶

Article 7(1)(b) of Law No. 23 of 2006 (as amended by Law No. 24 of 2013) provides that it is the obligation and responsibility of regency / municipal governments to organise population administration affairs, to be conducted by regents / mayors with a number of authorities, including specifically the establishment of the Implementing Agency.

Article 8(1)(a) of Law No. 23 of 2006 (as amended by Law No. 24 of 2013) provides that the Implementing Authority is obliged to register 'Vital Events'. Article 1(17) defines 'Vital Events' as "*an occurrence experienced by a person, including birth, death, foetal death, marriage, divorce, acknowledgement of a child, legitimisation of a child, adoption of a child, change of name and a change of citizenship status*".

Article 11 of Law No. 23 of 2006 grants power to civil registration officials to provide evidence of registrations and record data in the Register of Civil Registration Certificates and to issue copies of them. Article 67 of Law No. 23 of 2006 states that this Register is to contain all data relating to Vital Events and is to be stored and maintained by the Implementing Authority.

¹⁰⁴ Law No. 23 of 2006 concerning Population Registration. English translation available at <http://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=54eeefde4>.

¹⁰⁵ Law No. 24 of 2013, amendment to Law No. 23 of 2006 on Population Administration, available at <http://www.refworld.org/docid/54eeefce4.html>.

¹⁰⁶ Elucidation of Law No. 24 of 2013. English translation available at <http://www.refworld.org/docid/54eeefce4.html>.

Article 27(2) Law No. 23 of 2006 (as amended by Law no 24 of 2013) states that the civil registration officials are to make records of births as reported in accordance with Article 27(1) in the registry of birth certificates and are to issue an excerpt of the birth certificate.

Article 25 of Law No. 23 of 2006 states that the Implementing Agency must collect data from residents for whom population administration services are difficult to access, being residents who are victims of natural disaster or social disaster, disadvantaged persons (e.g. poor or of no fixed residence) and isolated communities (being local socio-cultural groups which are dispersed and insufficiently or not involved in networks and services) and that such data may be collected in a temporary location. It is not clear what data is to be collected under this Article but it is stated to be used as a "*basis for the issuance of Notifications of Residence for Residents for whom Population Administration [Services] are difficult to access*".¹⁰⁷

Does the child need to be registered within a certain amount of time from birth?

Yes (X) No ()

If yes, by when?

As set out above, Article 27(1) of Law No. 23 of 2006 on Population Administration (as amended by Law No. 24 of 2013) provides that every birth must be reported to the local Implementing Agency by no later than 60 days following the birth.

Article 32(1) of Law No. 23 of 2006 (as amended by Law No. 24 of 2013) states that, for births not registered within the 60 day period specified by Article 27(1), a birth certificate can be issued after obtaining the approval of the head of the local Implementing Agency.

Is a paper certificate issued as a result of the registration?

Yes (X) No ()

Articles 27(2) and 28(2) of Law No. 23 of 2006 on Population Administration (as amended by Law No. 24 of 2013) state that the Civil Registration Official shall, upon due registration of a birth, issue copies of the birth certificate.

In the case of birth certificates issued for a person whose descent and parents' location is unknown, Article 28(2) states that the copy certificate is to be held by the Implementing Agency. The explanatory notes to Law No. 23 of 2006 on Population Administration state that this copy of the birth certificate is to be given to the child in question when he or she reaches adulthood.

Different by region/area

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

¹⁰⁷ Article 35(3) of Law No. 23 of 2006 on Population Administration.

Is there a separate fee for the issuance of a paper certificate?

Yes () No (X)

Article 79A of Law No. 23 of 2006 (as amended by Law No. 24 of 2013) states that the administration and issuance of Population Documents shall be free of charge. Population Documents are defined at Article 1(8) as official documents issued by the Implementing Authority having legal force serving as an authentic means of evidence resulting from the service of population and civil registration. This definition does not specifically include birth certificates (or excerpts of them), but the Elucidation of Law No. 24 of 2013 states that the issue of an excerpt from the birth certificate shall be free of charge.

Article 95B states that any official of the Implementing Agency ordering, facilitating or imposing a charge in the administration and issuance of Population Documents shall be subject to criminal sanctions - imprisonment for maximum of six years and / or payment of a maximum fine of 75 million rupiah (approximately USD 5,540).¹⁰⁸

Different by region/area

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

Is there a Birth Registration Fee?

Yes () No (X) Conditional ()

Article 79A of Law No. 23 of 2006 (as amended by Law No. 24 of 2013) states that the administration and issuance of Population Documents shall be free of charge. Population Documents are defined at Article 1(8) as official documents issued by the Implementing Authority having legal force serving as an authentic means of evidence resulting from the service of population and civil registration. This definition does not specifically include birth certificates (or excerpts of them) but the Elucidation of Law No. 24 of 2013 states that the issue of an excerpt from the birth certificate shall be free of charge. Article 95B states that any official of the Implementing Agency ordering, facilitating or imposing a charge in the administration and issuance of Population Documents shall be subject to criminal sanctions - imprisonment for maximum of six years and / or payment of a maximum fine of 75 million rupiah (approximately USD 5,540).

If yes, amount in USD:

Not applicable.

If it's conditional, please provide reasons/cases for exemption.

Not applicable.

¹⁰⁸ All conversions are approximate and were made at the time of writing the report using a commercial exchange rate, available at www.xe.com.

Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration')

Yes (X) No ()

Article 90 of Law No. 23 of 2006 states that administrative fines (maximum 1 million rupiah, approximately USD 75.10) are payable for exceeding the 60 day time limit for reporting a birth specified by Article 27(1).

If yes, amount in USD:

Approximately USD 75.10.

Requirements for Birth Registration (tick what applies):

Identification of Child's Father (X)¹⁰⁹ His Nationality ()

Identification of Child's Mother (X)¹¹⁰ His Nationality ()

Marriage Certificate (X)¹¹¹

The Australia Indonesia Partnership for Justice Baseline Study on Legal Identity ("**Baseline Study**")¹¹² identifies Presidential Regulation No. 25 of 2008 on Requirements and Procedures of Population and Civil Registration¹¹³ as the legal basis for the requirements for birth registration. The Baseline Study identifies that, in order to obtain a birth certificate, the following documents must be produced:

1. A birth information letter from the doctor/hospital/midwife/birth attendant;
2. The name and identity of the birth witness;
3. A family card for the parents;
4. An ID card for the parents;
5. A photocopy of the parents' marriage certificate (subject to the comments below);
6. For children whose parents and origins are unknown, a statement from the police is required;
7. A completed form requesting a birth certificate.

¹⁰⁹ In order to have both parents named on the birth certificate.

¹¹⁰ In order to have the mother's name on the birth certificate.

¹¹¹ In order to have both parents named on the birth certificate.

¹¹² Australia Indonesia Partnership for Justice, "Baseline Study on Legal Identity, Indonesia's Missing Millions", February 2014, pp.60-61, available at http://www.aipj.or.id/uploads/reports_publication/8_f_20140227-011003_FA_baseline_report_english.pdf.pdf.

¹¹³ Please note that we have been unable to locate an English translation of Presidential Regulation No. 25 of 2008.

A recent policy paper by the Center for Global Development ("**CGD Policy Paper**") identifies the marriage certificate as being required in order to obtain a "high quality" birth certificate.¹¹⁴ The CGD Policy Paper states that the marital status of one's parents determines the type of birth certificate issued:

- Children whose parents are married under State Law will have their father's and mother's name on their birth certificate;
- Where parents have a religious marriage (but have not obtained a recognisable state marriage certificate) a child may only have a birth certificate naming its mother. To list the father on the certificate, the parents must lodge a letter of recognition / statutory declaration with the Civil Registry Office confirming that they are the father and mother of the child and that they have had a religious marriage. Upon issuing the parents with a recognition certificate, the civil registry is able to amend the birth certificate by making a side notation with the father's name;¹¹⁵ and
- Children whose parents are unmarried, or where the parents have a religious marriage and have not provided a letter of recognition to the civil registry office, will only have the mother's name on their birth certificate.

Accordingly, it appears that a child's birth can be registered without a marriage certificate, but, as set out above, this will result in differing entries being made on the certificate. Please see our comments below in the section titled 'Are children of single parents registered?' for commentary on the implications facing single parents and registering a birth.

Are Stateless / Refugee Births Registered?

Yes (X) No ()

Article 27(1) of Law No. 23 of 2006 (as amended by Law No. 24 of 2013) provides that every birth must be reported to the local Implementing Agency by no later than 60 days following the birth. The obligation applies to 'Residents', which Article 1(2) defines as Indonesian citizens and non-Indonesian citizens residing in Indonesia. Accordingly, stateless and refugee births are not excluded.

Article 81 of Law No. 23 of 2006 provides that, if a natural disaster results in an extraordinary situation, the Implementing Agency must collect resident data for refugees and victims of the natural disaster. The data is to be used to issue notifications of replacement identity cards and civil registration, which can then be used as evidence of identity and considered when issuing population administration documents (which, in accordance with Article 59(1), specifically includes civil registration certificates).

¹¹⁴ Center for Global Development, "Indonesia's Missing Millions: Erasing Discrimination in Birth Certification in Indonesia", June 2015, p.2, available at <http://www.cgdev.org/sites/default/files/CGD-Policy-Paper-64-Sumner-Missing-Millions.pdf>.

¹¹⁵ Center for Global Development (2015), op.cit., pp. 4-5. This paper references Article 91 of Presidential Regulation No. 25 of 2008 concerning Registration Requirements and Procedures for Population and Civil Registration, as amended by Law No. 24 of 2013 Revising Law on Population Administration. It should be noted that we have been unable to locate English translations of this legislation.

Are children of single parents registered?

Yes (X) No ()

Article 27(1) of Law No. 23 of 2006 (as amended by Law No. 24 of 2013) provides that every birth must be reported to the local Implementing Agency by no later than 60 days following the birth. The obligation applies to 'Residents', which Article 1(2) defines as Indonesian citizens and non-Indonesian citizens residing in Indonesia. Accordingly, children of single parents are not excluded.

However, there is significant commentary regarding the potential adverse implications of not being able to present a marriage certificate for the registration of a birth. The Baseline Study found that most people do not favour having a birth certificate that only records the mother's name, with over 64% of those in the study confirming a negative stigma associated with a birth certificate that only names the child's mother. This is because in Indonesia there is still a cultural stigma surrounding single parenthood. Because birth certificates with only the mother's name on are said to imply that the child is illegitimate, even unmarried yet co-habiting parents are said to be discouraged from registering for such birth certificates.¹¹⁶

The CGD Policy Paper also states that:

"If a birth certificate includes both the father and mother's name the child benefits as the father is required to provide financially for their welfare, and the child will benefit from inheritance rights in relation to both the father and mother".¹¹⁷

Are all children born in the territory registered?

Yes (X) No ()

Article 27(1) of Law No. 23 of 2006 (as amended by Law No. 24 of 2013) provides that every birth must be reported to the local Implementing Agency by no later than 60 days following the birth. The obligation applies to 'Residents', which Article 1(2) defines as Indonesian citizens and non-Indonesian citizens residing in Indonesia.

If no, please provide list of those not registered

Not applicable.

Other Requirements (if none, put n/a)

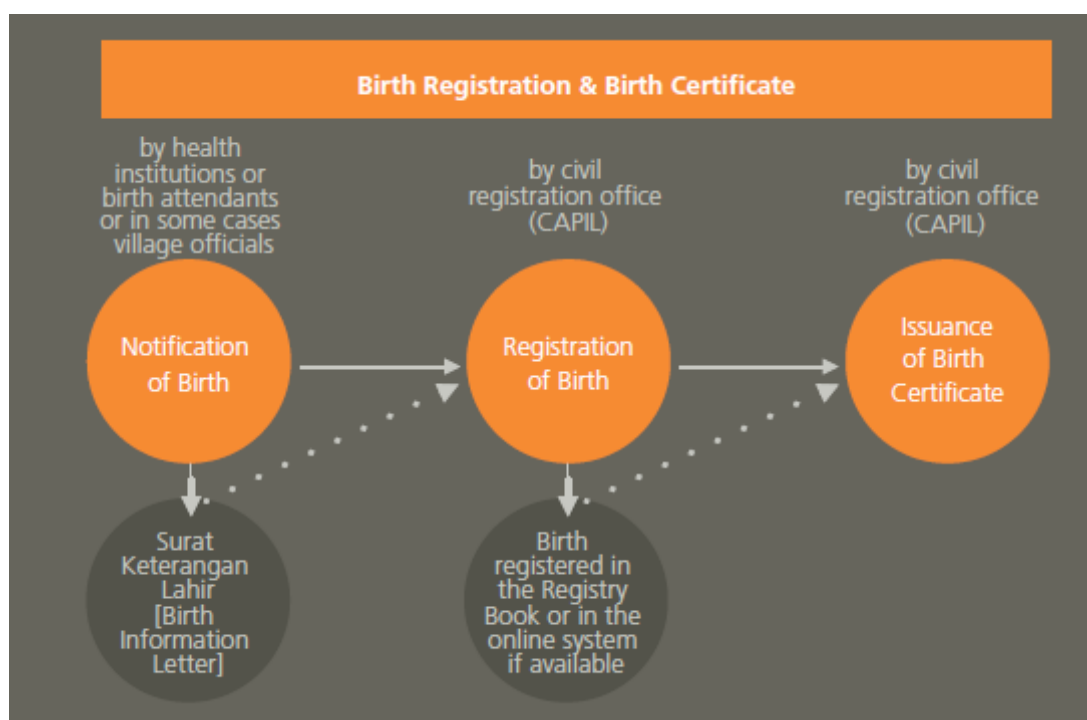
Not applicable.

Registration System Set-up

Electronic Submission () Paper Submission (X) Both ()

¹¹⁶ Australia Indonesia Partnership for Justice (2014), op.cit., p.55.

¹¹⁷ Center for Global Development (2015), op.cit., p.11.



The diagram above, which was taken from the Baseline Study, sets out the process for birth registration and obtaining a birth certificate. The parent must first ensure that the health institution or a similar figure provides a 'Birth Information Letter' evidencing the birth. The parent must then register the birth by completing a birth registration form, alongside the Birth Information Letter, either (i) in the online system (if available), or (ii) by registering it at the local civil registration office. The local civil registration office will then issue a birth certificate.¹¹⁸

Location of registration facilities

Capital city Yes (X) No ()

Other cities Yes (X) No ()

Villages Yes (X) No ()

Indonesian territory is composed of 34 provinces grouped into seven geographical units. The seven geographical units are Sumatra, Java, Lesser Sunda Islands, Kalimantan, Sulawesi and Maluku and Papua.

A province is the highest tier of the local government divisions of Indonesia. Provinces are further divided into regencies and cities, which are in turn subdivided into districts. Below a district is a village which is the lowest level of government administration.

¹¹⁸ Australia Indonesia Partnership for Justice (2014), op.cit., p.60.

The Government has established civil registration offices in all 34 provinces with civil registry implementing agencies in 399 regencies, 98 municipalities, 6,994 subdistricts, 8,309 administrative villages and 72,944 villages across Indonesia.¹¹⁹

Teams from the civil registration offices do make trips from the mainland to register births in smaller isolated communities.¹²⁰

Birth Registration is required for:

Access to education

Yes () No (X) Law _____

We have not identified any primary legislation that states that a birth certificate is legally required to access the public education system, but our research indicates that, in practice, a birth certificate may be required by individual schools or relevant local authorities.

There is various legislation stating that all Indonesian citizens should have free access to education:

- Article 31(1) of the Constitution of the Republic of Indonesia 1945 (as amended) states that "Every citizen has the right to education."¹²¹
- Article 6(1) of Law No. 20 of 2003 on National Education System states that "Every seven to fifteen years old citizen shall have the right to receive basic education".¹²²
- Article 11 of Law No. 20 of 2003 on National Education System states that:

"(1) *The Government and local governments have to provide services and facilities and to ensure the implementation of quality education for every citizen without discrimination;*

(2) *The Government and local governments have to ensure the availability of funds for the implementation of education for every Indonesian citizen from aged seven to fifteen."*
- Article 34(1) of Law No. 20 of 2003 on National Education System provides that "Every citizen can enrol in a compulsory basic education programme at the age of six." Article 34(2) provides that "*the Government and local governments guarantee the implementation of compulsory education at least for basic education free of cost*".

¹¹⁹ United Nations Committee on the Rights of the Child Sixty-Sixth session 26 May–13 June 2014, "Replies of Indonesia to the list of issues in relation to the combined third and fourth periodic reports of Indonesia", available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fIDN%2fQ%2f3-4%2fAdd.1&Lang=en.

¹²⁰ UNICEF, "A legal identity for all", 28 October 2014, available at <http://unicefindonesia.blogspot.co.uk/2014/10/a-legal-identity-for-all.html>.

¹²¹ Constitution of the Republic of Indonesia 1945 (as amended). English translation available at http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_174556.pdf.

¹²² Law No. 20 of 2003 on National Education System. English translation available at http://planipolis.iiep.unesco.org/upload/Indonesia/Indonesia_Education_Act.pdf.

In practice, it appears that access to public education without a birth certificate varies from area to area and school to school.

The Baseline Study states that provincial and local government legislation, as well as school directives, state that a birth certificate is required to enrol a child at school. It also states that not having a birth certificate could lead to exclusion for disabled children from mainstream and special needs schools.¹²³

The Baseline Study found that, in the 20 Indonesian districts which it had identified as priority areas, almost all primary and junior secondary schools that the research team visited required a birth certificate as a mandatory requirement for enrolment, including special needs schools. Five out of those 20 districts had a district level regulation in place, while in most other districts the requirement was a school directive. However, most schools in all 20 districts would accept other forms of identification as an alternative to a birth certificate, such as a birth information letter ("**Surat Keterangan Lahir**" / "**SKL**") or a family card ("**Kartu Keluarga**" / "**KK**").¹²⁴

The Baseline Study found that only 10% of women and 9% of men aged 19-29 who do not have a birth certificate had completed 12 years of education. However, the Baseline Study states that the underlying reasons behind the failure to enrol in school remains statistically unclear and that only 0.8% of respondents reported that not having a birth certificate was the reason for their child not having attended school.¹²⁵

The response provided by Indonesia to the Committee on the Rights of the Child dated 6 May 2014 states that the Ministry of Education had issued Circular Note No. 279/MPK/KL/2012, regarding possession of birth certificates as one of the requirements for enrolment of schools.¹²⁶ This was aimed to encourage parents, particularly of those children under five entering education, to register the birth of their children. The report then states that: "*This provision should not in any way be intended as an impediment to the access of education for children*". We have been unable to obtain a copy of this circular and cannot comment as to its contents.¹²⁷

Obtaining a primary school diploma

Yes () No () Unclear (X) Law _____

Primary school is known as elementary school ("**Sekolah Dasar**" / "**SD**"). Children must attend from the age of six to 11 and must complete elementary school within six years. The admission of a child to elementary school is generally at the discretion of the school principal.¹²⁸

¹²³ Australia Indonesia Partnership for Justice (2014), op.cit., p.72.

¹²⁴ Australia Indonesia Partnership for Justice (2014), op.cit., p.48.

¹²⁵ Australia Indonesia Partnership for Justice (2014), op.cit., p.48.

¹²⁶ Circular Note No. 279/MPK/KL/2012.

¹²⁷ Committee on the Rights of the Child (2014), op.cit., p.9.

¹²⁸ Just Landed, "Early education in Indonesia", available at <https://www.justlanded.com/english/Indonesia/Indonesia-Guide/Education/Early-education-in-Indonesia>; see also Australia Indonesia Partnership for Justice (2014), op.cit., p.48.

Obtaining a secondary school diploma

Yes () No () Unclear (X) Law _____

Secondary education is divided into two parts:

- junior secondary school, known as Junior High School ("**Sekolah Menengah Pertama**" / "**SMP**"), is compulsory and is for children aged between 12 and 14 or 15;
- after completing junior high school students are no longer legally required to stay in education. However, for those that wish to, there are two options: Senior High School ("**Sekolah Menengah Atas**" / "**SMA**"), or a vocational high school ("**Sekolah Menengah Kejuruan**" / "**SMK**").¹²⁹

Enrolment requirements vary between schools and may include a birth certificate.¹³⁰ The Baseline Study states that a birth certificate may be required for the national examination at the end of grade 6 at senior high school. However, the implementation of this policy is stated to be discretionary. The Baseline Study reports that many school officials would accept other forms of identification such as a family card (KK) or letter of birth (SKL).¹³¹

Access to health (emergency services only)

Yes () No () Unclear (X) Law _____

No specific provisions have been identified, which require a birth certificate in order to access emergency services for health.

Please see below under the section "Access to health (all services)" for further information on the anecdotal relationship between birth certificates and healthcare.

Access to health (primary health services only)

Yes () No () Unclear (X) Law _____

No specific provisions have been identified, which require a birth certificate in order to access primary health services.

Please see below under the section "Access to health (all services)" for further information on the anecdotal relationship between birth certificates and healthcare.

Access to health (all services)

Yes () No () Unclear (X) Law _____

The Government of Indonesia implemented a universal health care programme on 1 January 2014 and extended free health insurance to 48% of its population under Law No. 40 of 2004 concerning the National Social Security System. Under the new system, the government is committed to providing

¹²⁹ Just Landed website, op.cit.

¹³⁰ AngloINFO, "Primary and Secondary Education in Indonesia", available at <http://bali.angloinfo.com/information/family/schooling-education/primary-secondary/>.

¹³¹ Australia Indonesia Partnership for Justice (2014), op.cit., p.49.

universal health care to its 247 million citizens, though employers and wealthier citizens are obliged to pay their own premiums.

The system was implemented by the Badan Penyelenggara Jaminan Sosial ("**BPJS**") and there is an obligation for the whole of the Indonesian population to register with BPJS (by 1 January 2015 for employees and 1 January 2019 for non-employees).¹³²

The following is required for enrolment in the BPJS programme:

- A bank account; and
- Registration at the closest BPJS Office using the following documents:
 - a. Completed registration form;
 - b. Copy of their Indonesian National ID card;
 - c. Copy of their family card (KK);
 - d. Two photos (3 x 4 cm) for each member of the family;
 - e. An applicant may also be asked for their tax identification number ("**NPWP**").¹³³

Children may be recorded on family cards and in the system's database, but not registered for birth. Particularly for poor and rural Indonesians, this dual system poses challenges. Birth certificates – as reaffirmed by the Constitutional Court in Indonesia— remain the only valid affirmation of legal identity and citizenship. They are also required for many important activities. While in practice these requirements are not always enforced, this leaves people vulnerable to the discretion of local officials. Registration is sometimes used as a way to ration scarce services. As a result, the system tends to exclude poorer Indonesians and restrict their opportunities.¹³⁴

Accessing healthcare often relies on children having a birth certificate.¹³⁵ In Nusa Tenggara Barat children with a birth certificate were 75% more likely to access health services, as compared to children without a birth certificate.¹³⁶

Access to social security programmes / cash benefits

Yes () No () Unclear (X) Programme name *The National Social Security System Law* _____

Article 28H(3) of the Constitution of Indonesia states that everyone has "*the right to social security, in order to develop oneself fully as a dignified human being*".

¹³² Expat Web Association Jakarta, "Registration in the National Health System", available at <http://www.expatri.or.id/medical/registrationinthenationalhealthsystem.html>.

¹³³ Expat Web Association Jakarta website, op.cit.

¹³⁴ Center for Global Development, "Labor Pains: Birth and civil registration in Indonesia", available at <http://www.cgdev.org/blog/labor-pains-birth-and-civil-registration-indonesia>.

¹³⁵ Plan UK, "Indonesia: Birth Registration for Street Children", available at <http://www.plan-uk.org/what-you-can-do/project-donation/forgotten-children/Indonesia-birth-registration>.

¹³⁶ Australia Indonesia Partnership for Justice (2014), op.cit., p.50.

Article 34(2) states that the State shall develop a social security system for all citizens and empower the poor and less fortunate in accordance with human dignity. The Constitution also compels the State, through Article 34(1), to care for poor and abandoned children.

Law No. 40 of 2004 concerning the National Social Security System¹³⁷ and Law No. 11 of 2009 on Social Welfare (which replaces Law No. 6 of 1974 on Basic Provisions of Social Welfare) was implemented to ensure these rights and sets up the National Social Security System as a social protection to ensure the fulfilment of basic needs for a decent life for every participant and/or family member. The system is expected to fulfil the basic public services, including: health insurance, work accident insurance, pension, and life insurance.

Law No. 24 of 2011 on Social Security Implementing Agency (i.e. BPJS) created two social security implementing agencies: BPJS Health (universal social health insurance), which began operation in January 2014; and BPJS Employment (pension, old age, death and work accident benefits), which began operation in July 2015.¹³⁸

The new insurance programme requires the head of the household to produce their family card (KK) stating that they are the head of household and listing dependent children.¹³⁹

Nationality

Yes () No (X) Law _____

Article 53(2) of Law No. 39 of 1999 concerning Human Rights states that every child has the right to a name and a nationality.¹⁴⁰

Law No. 12 of 2006 on Citizenship of the Republic of Indonesia stipulates who may be considered an Indonesian Citizen. Birth registration is not required by this law. Please see further details at the beginning of this report.

Evidencing Indonesian nationality may however be difficult without a birth certificate. The CGD Policy Paper suggests that only two documents can establish Indonesian citizenship - a birth certificate or a passport.¹⁴¹ As detailed below, it may be difficult to obtain a passport without a birth certificate.

¹³⁷ An unofficial translation of Law No. 40 of 2004 concerning the National Social Security System is available at <http://www.ilo.org/dyn/natlex/docs/MONOGRAPH/69781/93934/F1705566322/IDN69781.pdf>.

¹³⁸ Law No. 24 of 2011 on Social Security Implementing Agency.

¹³⁹ Australia Indonesia Partnership for Justice (2014), op.cit., p.54.

¹⁴⁰ Law No. 39 of 1999 concerning Human Rights. English translation available at <http://www.refworld.org/docid/4da2ce862.html>.

¹⁴¹ Center for Global Development, "Indonesia's Missing Millions: Erasing Discrimination in Birth Certification in Indonesia", June 2015, p. 7, available at <http://www.cgdev.org/sites/default/files/CGD-Policy-Paper-64-Sumner-Missing-Millions.pdf>.

Identification card

Yes (X) No () Law *Presidential Regulation No. 25 of 2008 on Requirements and Procedures of Population and Civil Registration*.

Article 63(1) of Law No. 23 of 2006 (as amended by Law No. 24 of 2013) provides that Indonesian citizens aged 17 or over (or, of any age where married) are obliged to hold an electronic identity card (known as an "e-KTP"). The e-KTP is required to hold certain elements of population data for the holder such as their single identity number (known as a "NIK"), place and date of birth, sex, religion, marital status, blood type, address, occupation, nationality, photograph, place and date of issue of the card and their signature.

Article 69(1)(a) of Law No. 23 of 2006 provides that an e-KTP is to be issued by the Implementing Agency or authorised official within 14 days from the date of fulfilment of the application requirements.

We have been unable to locate a primary source which details the requirements for obtaining an e-KTP. We have located a news article (dated 29 February 2012)¹⁴² and also the CGD Policy Paper¹⁴³ which both state that a birth certificate is a pre-requisite for an ID card. The CGD Policy Paper cross references Articles 12 and 15 of Presidential Regulation No. 25 of 2008 on Requirements and Procedures of Population and Civil Registration¹⁴⁴ as authority that a birth certificate is a legal pre-requisite for the issuance of an e-KTP, but we have been unable to find an English translation of this Regulation. However the CGD further states that:

"...this provision of the law is not implemented and the practice has been to reverse what is stated in the law. This has led to the primacy of the family card and ID cards for individuals over 17 years over birth registration."

Accordingly, although we cannot confirm the position, it would seem that whilst there is a legal prerequisite for a birth certificate before an identity card can be obtained, this is not implemented in practice.

Passport

Yes (X) No () Law *Government Regulation No. 31 of 2013*.

Article 49(c) of Government Regulation No 31 of 2013 (Implementing Regulation of Act No. 6 of 2011 concerning Immigration)¹⁴⁵ provides the following data requirements to support an application for a passport:

¹⁴² Antaranews, "Illegitimate child rights and its problems in Indonesia", 29 February 2012, available at <http://www.antaranews.com/en/news/80263/illegitimate-child-rights-and-its-problems-in-indonesia>.

¹⁴³ Center for Global Development (2015), op.cit., p.7.

¹⁴⁴ Presidential Regulation No. 25 of 2008 on Requirements and Procedures of Population and Civil Registration. The Indonesian language original is available at: <http://www.hukumonline.com/pusatdata/download/fl55533/node/27909>.

¹⁴⁵ Government Regulation of the Republic of Indonesia No. 31 of 2013. An English translation is available at

"a. Resident identification card that is still valid;

b. Family card;

c. Birth certificate, a marriage certificate or marriage book, diplomas, or baptismal certificate."

This applies in the case of Indonesian citizens who are domiciled or resident in the Indonesian territory. Slightly different requirements apply to applications for diplomatic or service passports.

As stated at the section above relating to identity cards, the CGD Policy Paper and news article referenced above both state that a birth certificate is a prerequisite for an identity card (which would in turn mean that it would also be a prerequisite for a passport), but we have been unable to verify the accuracy of these statements by reference to a reliable primary source in English. As set out above, the CGD Policy Paper states that any legal requirement for a birth certificate before an identity card can be issued is not implemented in practice. Accordingly, it may in fact be possible to obtain a passport without a birth certificate, but we are not able to verify this.

Other (Please specify e.g. enrolment for social protection programme/ food bank)

The Baseline Study identifies the importance of a birth certificate for access to employment opportunities, stating that a birth certificate is required in order to become a civil servant and government employee, at both national and subnational level, as well as it being a mandatory prerequisite for most formal and private sector employment.¹⁴⁶

The CGD Policy Paper states that a birth certificate is required in order for a child to be treated as a child rather than an adult in the criminal justice system.¹⁴⁷

References

Legislation Reviewed:

- Constitution of the Republic of Indonesia 1945 (as amended);
- Law No. 2 of 1989 on the National Education System;
- Law No. 39 of 1999 concerning Human Rights;
- Law No. 23 of 2002 on Child Protection;
- Law No. 20 of 2003 on the National Education System;
- Law No. 40 of 2004 on the National Social Security System (Sistem Jaminan Sosial Nasional or SJSN);
- Law No. 12 of 2006 on Citizenship of the Republic of Indonesia;
- Law No. 23 of 2006 concerning Population Administration;

<http://www.imigrasi.go.id/phocadownloadpap/PeraturanPemerintah/pp%2031%20th%2013%20english%20version.pdf>.

¹⁴⁶ Center for Global Development (2015), op.cit., p. 9.

¹⁴⁷ Center for Global Development (2015), op.cit., p. 11.

- Law No. 37 of 2007 which amends Law No. 23 of 2006 on Population Administration;
- Law No. 11 of 2009 on Social Welfare;
- Law No. 24 of 2011 on Social Security Implementing Agency (Badan Penyelenggara Jaminan Sosial or BPJS);
- Law No. 24 of 2013, which amends Law No. 23 of 2006 on Population Administration;
- Government Regulation of the Republic of Indonesia No. 31 of 2013 (Implementing Regulation of Act No. 6 of 2011 concerning Immigration).

Further Sources:

- AngloINFO, "Primary and Secondary Education in Indonesia", available at <http://bali.angloinfo.com/information/family/schooling-education/primary-secondary/>
- Antara News, "Illegitimate child rights and its problems in Indonesia", available at <http://www.antaranews.com/en/news/80263/illegitimate-child-rights-and-its-problems-in-indonesia>
- Australia Indonesia Partnership for Justice, "Indonesia's Missing Millions", available at <http://www.cpcnetwork.org/wp-content/uploads/2015/02/AIPJ-PUSKAPA-BASELINE-STUDY-ON-LEGAL-IDENTITY-Indonesia-2013.pdf>
- Center for Global Development, "Labor pains: birth and civil registration in Indonesia", available at <http://www.cgdev.org/blog/labor-pains-birth-and-civil-registration-indonesia>
- Center for Global Development, "Indonesia's Missing Millions: Erasing Discrimination in Birth Certification in Indonesia", available at <http://www.cgdev.org/sites/default/files/CGD-Policy-Paper-64-Sumner-Missing-Millions.pdf>
- International Labour Organisation, "Social Security in Indonesia: Advancing the Development Agenda", (2008), available at http://www.ilo.org/wcmsp5/groups/public/@asia/@ro-bangkok/@ilo-jakarta/documents/publication/wcms_116153.pdf
- Just Landed, "Early Education in Indonesia", available at <https://www.justlanded.com/english/Indonesia/Indonesia-Guide/Education/Early-education-in-Indonesia>
- Living in Indonesia, "Registration in the National Health System", available at <http://www.expats.or.id/medical/registrationinthenationalhealthsystem.html>
- Plan International USA, "Breaking the chains of poverty through birth registration", available at <https://www.planusa.org/breaking-the-chains-of-poverty-through-birth-registration>
- Plan UK, "Indonesia: Birth registration for street children", available at <http://www.plan-uk.org/what-you-can-do/project-donation/forgotten-children/Indonesia-birth-registration>
- UNICEF, "Birth Registration Right From The Start", available at http://www.childinfo.org/files/birthregistration_Digestenglish.pdf
- UNICEF, "A legal identity for all", 28 October 2014, available at <http://unicefindonesia.blogspot.co.uk/2014/10/a-legal-identity-for-all.html>

- UNICO Studies Series 8, "The Nuts & Bolts of Jamkesmas: Indonesia's Government-Financed Health Coverage Program for the Poor and Near-Poor", January 2013, available at http://www.wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2013/03/25/000333037_20130325130647/Rendered/PDF/749960REVISED0000PUBLIC00Indonesia1.pdf
- United Nations Committee on Economic, Social and Cultural Rights, "Initial reports submitted by States parties under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights: Indonesia", 29 October 2012, available at <http://www.refworld.org/docid/52d3bca54.html>
- United Nations Committee on the Rights of the Child, "Replies of Indonesia in relation to the combined third and fourth periodic reports of Indonesia, Sixty-sixth session 26 May–13 June 2014", available at <http://www.refworld.org/pdfid/5385b2474.pdf>
- United Nations Research Institute for Social Development, "Working Paper 2014-14: Expanding Social Security in Indonesia - The Processes and Challenges", available at [http://www.unrisd.org/80256B3C005BCCF9/\(httpAuxPages\)/B31ACAA3F1FF4206C1257D9C0052B44F/\\$file/Suryahadi%20et%20al.pdf](http://www.unrisd.org/80256B3C005BCCF9/(httpAuxPages)/B31ACAA3F1FF4206C1257D9C0052B44F/$file/Suryahadi%20et%20al.pdf)

Legislation, Government Publications, Court Decisions and Other Resources which are unavailable in English translation, but may be relevant:

- Ministry of Education Circular Note No. 279/MPK/KL/2012, which we understand relates to requirements for birth certificates for enrolling in schools;
- Decision of the Constitutional Court No. 18/PUU-XI/2013, relating to the requirement for an order of the General Courts to obtain birth certificates for children over one year old;
- Presidential Regulation No.25 of 2008 on Requirements and Procedures of Population and Civil Registration;
- The prescribed forms of application forms for birth certificates, ID cards and passports.

KENYA

QUESTIONNAIRE ON BIRTH REGISTRATION - KENYA

Key points

- Birth registration within six months of life is compulsory for all children born in Kenya, irrespective of race, gender or ethnicity.
- Kenya imposes a small fee for a birth certificate and a late registration fee is imposed after six months.
- Without registration, children in Kenya are prohibited from sitting national exams which are considered mandatory for attendance at Primary School and Secondary School. It may also be difficult to obtain a passport without birth registration (or an adoption certificate).

Name of official authority in charge of registering a child's birth:

The Department of Civil Registration is the Government Agency that is responsible for implementing the compulsory registration of births occurring in Kenya. The Department of Civil Registration is part of the Directorate for Immigration and Registration of Persons.¹⁴⁸

Birth certificates are issued by district civil registrars in the district in which the birth occurs. In 2008/09, the birth registration rate in Kenya for children below the age of two was reported at 59.5%.¹⁴⁹

Where is the civil registry located in the government?

- ☐ () Ministry of Justice
- ☒ (X) Ministry of Interior¹⁵⁰ - Ministry of Interior and National Co-ordination of Government
- ☐ () Electoral Agency
- ☐ () Independent Entity
- ☐ () Other

Law and other relevant instruments: Presidential Circular No. 1 / 2008 on the Organisation of Government.¹⁵¹

¹⁴⁸ Directorate of Immigration and Registration of Persons, "Contact Us", available at <http://www.immigration.go.ke/ContactUs.html>.

¹⁴⁹ DHS Program, "Kenya 2008-09 DHS Final Report (English)", p. 52, available at <http://dhsprogram.com/what-we-do/survey/survey-display-300.cfm>.

¹⁵⁰ Website of Directorate of Immigration and Registration of Persons, op.cit.

¹⁵¹ Republic of Kenya, "Organisation of the Government of the Republic of Kenya", Presidential Circular No. 1/2008, Kenya Gazette (May 2008).

Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?

Jus sanguinis. Section 14(1) of the Constitution of Kenya ("**Constitution**") requires only one parent to be a Kenyan citizen for the child to be considered a Kenyan citizen by birth.¹⁵² Section 14(4) of the Constitution provides that a child found in Kenya who is, or appears to be, under 8 years old, and whose nationality and parents are not known, is presumed to be a Kenyan citizen by birth.

Is there any legal obligation to register children?

Yes (X) No ()

If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.

Section 9 of Births and Deaths Registration Act (Cap. 149) ("**Registration Act**")¹⁵³ gives power to the Minister to declare, by notice in the Gazette, the compulsory registration of births of all persons in Kenya of any particular race, class, tribe or group, or of all or some of the inhabitants of any particular town, district or area.

Throughout the 1960s the Minister made declarations in favour of compulsory registration of births for specific Kenyan provinces.¹⁵⁴ In 1971, Gazette Notice L.N. 184/1971¹⁵⁵ made registration of births compulsory for all inhabitants of the remaining non-compulsory areas within Kenya. This took effect from 1 September 1971. As such, registration of births of all inhabitants in Kenya is compulsory.

Section 11 of the Registration Act creates a duty on specific persons to give notice of the birth to the registrar of the registration area in which the birth occurs.

"11. Upon the birth of any child the registration of whose birth is compulsory, it shall be the duty of the father and mother of the child, and, in default of the father and mother, of the occupier of the house in which to his knowledge the child is born, and of every person present at the birth, and of the person having charge of the child, to give notice of the birth, within such time as may be from time to time prescribed, to the registrar of the registration area in which the birth occurs. Provided that, in the case of births in prisons, hospitals, orphanages, barracks or quarantine stations, the duty to give such notice shall lie on the officer in charge of the establishment in which the birth took place".

¹⁵² The Constitution of Kenya 2010, available at <http://www.kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=Const2010>.

¹⁵³ Section 9, Births and Deaths Registration Act.

¹⁵⁴ Gazette Notices L.N. 172/1963, L.N. 174/1965, L.N. 262/1966, L.N. 18/1967, L.N. 56/1967, L.N. 7/1968, L.N. 173/1968, L.N. 29/1969, L.N. 30/1969, L.N. 207/1969.

¹⁵⁵ Gazette Notice L.N. 184/1971.

Section 22 of the Registration Act imposes a penalty of a fine up to 500 Kenyan shillings (USD 4.92)¹⁵⁶ and/or imprisonment for up to six months for the failure to register a birth when there is a duty to do so, or for wilfully giving false information for the purpose of registration.

Does the child need to be registered within a certain amount of time from birth?

Yes (X) No ()

If yes, by when?

There are two separate deadlines imposed by the Registration Act and the Births and Deaths Registration Rules 1966 ("**Registration Rules**").¹⁵⁷

First, section 11 of the Registration Act and section 6 of the Registration Rules together require that the notice of the birth of any child must be given within three months from the date of birth. The applicant must present this notification to the Principal Civil Register, who will issue an official birth certificate.¹⁵⁸

Second, a child should be registered within six months. There is a fee if the birth of a child is registered after a six month period. Section 8 of the Registration Act states that a registrar shall not register a birth after the expiration of six months from the date of the birth, except upon:

- receiving the written authority of the Principal Registrar issued in accordance with the Registration Rules; and
- payment of the prescribed fee.

Is a paper certificate issued as a result of the registration?

Yes (X) No ()

Section 26(3) of the Registration Act requires the Principal Registrar to issue a birth certificate on payment of the prescribed fee.

Section 11 of the Registration Rules provides that the Registrar General may issue a certificate of birth in either of two forms:

- a full certificate in Form No. 4 in the Schedule to the Registration Rules; or
- a short certificate in Form No. 5 in the Schedule to the Registration Rules.¹⁵⁹

Section 11 of the Registration Rules also provides that a person, on payment of the prescribed fee, is entitled to a birth certificate in either of these forms.

¹⁵⁶ All conversions are approximate and made at the time of writing the report using a commercial exchange rate, available at www.xe.com.

¹⁵⁷ Please note that sections 8 and 11 of the Births and Deaths Registration Act operate separately. As such, the act of registering a child's birth is separate and different to giving notice of a child's birth.

¹⁵⁸ Plan International (1), "Birth Registration and Children's Rights: A Complex Story", May 2014, p. 27, available at <http://www.planusa.org/docs/reports/2014-birth-registration-research-full-report.pdf>.

¹⁵⁹ Please see the copies of Form No. 4 and Form No. 5 included at Appendix 1.

Different by region/area?

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

Is there a separate fee for the issuance of a paper certificate?

Yes (X) No ()

The fee is 50 Kenyan shillings (0.49 USD) for a full certificate or 5 Kenyan shillings (0.05 USD) for a short certificate.¹⁶⁰

Different by region/area

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

Birth Registration Fee

Yes () No (X) Conditional ()

Registration of births is free, if done within the first six months.

If yes, amount in USD:

Not applicable.

If it's conditional, please provide reasons/cases for exemption.

Not applicable.

Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration')

Yes (X) No ()

Section 8 of the Birth and Deaths Act states that a registrar shall not register a birth more than six months after the birth, except upon receiving the written authority of the Principal Registrar issued in accordance with the Registration Rules and upon payment of the prescribed fee. The Registration Rules prescribe a fee of 100 Kenyan shillings (approximately USD 0.98).¹⁶¹

¹⁶⁰ Section 23(e)(f), Births and Deaths Registration Rules.

¹⁶¹ Section 8, Births and Deaths Registration Act; and section 23(a), Births and Deaths Registration Rules.

Even though the fee is relatively small, the cost of travelling to the district registrar can be expensive for people in rural communities.¹⁶²

If yes, amount in USD:

Approximately 0.98 USD.

Requirements for Birth Registration (tick what applies):

Identification of Child's Father () His Nationality ()

Identification of Child's Mother (X) Her Nationality ()

Marital Status (X) - Depends on timescale

Section 7(1) of the Registration Rules provides that a person registering a birth in a compulsory registration area must complete in duplicate a birth registration form in Form No. 1 to the Schedule of the Registration Rules and deliver it to the registrar or a deputy registrar. Form No. 1 includes spaces for the name of the child's father and mother, as well as whether the mother is married to the father (by custom or by ceremony).¹⁶³

The Registration Act and the Registration Rules operate such that the applicant must provide the identity of the mother for birth registration. This is because section 7(1) of the Registration Rules requires the applicant to provide the following information relating to the mother in Form No. 1:

- full name of the mother;
- normal residence of the mother; and
- age of mother at birth.
- However, the identification of a father is not compulsory for birth registration. Section 12 of the Registration Act states that no person is to be entered in the register as the father of any child except:
 - at the joint request of the father and mother; or
 - upon the production to the registrar of evidence that the father and mother were married according to law or in accordance with some recognised custom.

In addition, the applicant's obligation to provide a marriage certificate depends on whether the birth registration falls inside or outside the first six months of the child's birth.

Inside the first six months: the applicant (e.g. the father or mother) does not need to provide any documentary proof to the registrar or a deputy registrar of his or her marital status. As such, a single mother can apply for the registration of her child.

¹⁶² Jill Craig, "Kenya Works to Make Birth Registration Easier", Voice of America News, available at <http://www.voanews.com/content/kenya-working-to-make-birth-registration-process-easier/1486469.html>.

¹⁶³ A copy of Form No. 1 is included at Appendix 1.

Outside the first six months (i.e. late birth registration): if the applicant (e.g. the father or the mother) belongs to an ethnic group or tribe indigenous to Kenya, the applicant does not need to provide any documentary proof to the Registrar General of his or her marital status.¹⁶⁴ However, if the applicant does not belong to an ethnic group or tribe indigenous to Kenya, the applicant must provide documentary evidence of his or her marital status.¹⁶⁵ If the applicant is married, he or she must provide documentary proof of the date of his or her marriage. As such, if the applicant is a single mother, she must provide documentary evidence to the Registrar General that she is not married to the father of the child. Such documentary evidence may be:

- a letter from a local chief known to the mother; or
- a sworn affidavit by the mother indicating that she is not married to the father of the child.¹⁶⁶

Are Stateless / Refugee Births Registered?

Yes (X) No ()

Sections 9 and 11 of the Registration Act, which are the legal basis for compulsory birth registration, refer to "*the births of all persons in Kenya or any particular race, class, tribe or group, or all or some of the inhabitants of any particular town, district or area*". There is no legislative restriction preventing the registration of stateless or refugee births.

In addition, in order to ensure protection of the rights of unaccompanied refugees and asylum-seeking children, Kenya has special registration mechanisms for "unaccompanied children" whereby any child who enters the country unaccompanied is registered and issued with individual documentation within the shortest time, but not longer than three months.¹⁶⁷

Section 2 of the Refugees (Reception, Registration and Adjudication) Regulations 2009 ("**Refugees Regulations**") defines "unaccompanied child" to mean a child who is not accompanied by a parent or a care taker. Section 15 of the Refugees Regulations sets out the registration mechanisms for unaccompanied children. For example, section 15(3)(a) provides that a registration officer shall register an unaccompanied child in Form No. 3 set out in the Schedule to the Refugees Regulations.

In 2010 it was reported that a total of:

- 6,552 male and 6,237 female refugee children were registered at birth; and

¹⁶⁴ Section 3(1), Births and Deaths (Late Registration) Rules 1971; see also Form No. 1 in the Schedule to the Births and Deaths (Late Registration) Rules.

¹⁶⁵ Section 3(2), Births and Deaths (Late Registration) Rules 1971; see also Form No. 2 in the Schedule to the Births and Deaths (Late Registration) Rules.

¹⁶⁶ J. Ayieye, "Birth Registration in Practice", available at <http://kenyalaw.org/kl/index.php?id=1897>.

¹⁶⁷ United Nations Committee on the Rights of the Child, "Consideration of reports submitted by States Parties under Article 44 of the Convention, Combined third, fourth and fifth periodic reports of States Parties due in 2012", p. 15, available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fKEN%2f3-5&Lang=en.

- 3,155 male and 3,003 female refugee and asylum seeking children were registered after six months.¹⁶⁸

In early 2015 the Supreme Court of Kenya ruled that section 48 of the Security Laws (Amendment) Act No. 19 of 2014, which limited the number of refugees and asylum seekers permitted to stay in Kenya to 150,000, violated “the principle of non-refoulement as recognised under the 1951 UN Convention on the Status of Refugees” and was therefore unconstitutional.¹⁶⁹

Are children of single parents registered?

Yes (X) No ()

Please see the previous answer on 'Requirements for Birth Registration'.

In addition, the Legitimacy Act (Cap. 145) ("**Legitimacy Act**") and the Legitimacy Regulations 1961 ("**Legitimacy Regulations**") provide for the re-registration of the birth of illegitimate children where they have subsequently been made legitimate through the marriage of their mother and father.¹⁷⁰ Paragraph 5 of the Schedule to the Legitimacy Act states that there should be no charge for re-registration provided that it takes place within three months of the date of the marriage. If the application to re-register the birth is submitted later than three months from the date of the marriage, Rule 11 of the Legitimacy Regulations imposes a fee of 10 Kenyan shillings (approximately USD 0.10).

Rule 9 of the Legitimacy Regulations states that:

"Whenever a birth is re-registered under the Act, the registrar shall endorse the original entry relating to the birth with the words "Re-registered under the Legitimacy Act" and add the date of re-registration".

Are all children born in the territory registered?

Yes (X) No ()

Following the publication of Gazette L.N 184/1971, registration of births and deaths of all inhabitants within Kenya is compulsory. Please see the previous answer on 'Is there any legal obligation to register children?'.

If no, please provide list of those not registered.

Not applicable.

Other Requirements (if none, put n/a)

Not applicable.

¹⁶⁸ United Nations Committee on the Rights of the Child, op.cit., p. 26.

¹⁶⁹ *Coalition for Reform and Democracy (CORD) & another v Republic of Kenya & another* [2015] eKLR, available at <http://kenyalaw.org/caselaw/cases/view/106083/>.

¹⁷⁰ Legitimacy Act (Cap. 145) and the Legitimacy Regulations 1961 [L.N. 364/1969, L.N. 585/1961].

Registration System Set-up

If a child is born in a hospital, all medical facilities in Kenya provide a birth notification card. However, if a child is born at home, a designated individual such as a chief, sub-chief or a community elder is authorised to register the notification of births in his location. In Nairobi, all births are registered at the City Hall. Birth registration services can also be found at the District Birth and Death registries.¹⁷¹

Electronic Submission () Paper Submission () Both (X)

Over the years there have been a number of public and private projects aimed at improving access to birth registration services. For example, the Ministry of Foreign Affairs in Finland and Nokia, together with independent development organisation Plan International, established a universal birth registration project in the Kwale district of Kenya. This project aims to increase the efficiency and effectiveness of birth registration and incentivise parents and guardians to register their children. In addition to computer-based software and mobile devices, the Nokia Data Gathering application enables birth registration services to be offered to people in the more remote parts of the community. Through this system, people are able to send forms directly to Kwale rather than having to travel which can be expensive.¹⁷²

In early 2014 SAP Africa, a software related services business, also announced the launch of a mobile application prototype to simplify the birth registration process in Kenya, saving costs and time and therefore making access to education, healthcare and employment easier.¹⁷³

The Government of Kenya has also now launched the e-Citizen gateway, which allows applicants to apply for government services online. There is a section on the e-Citizen gateway dedicated to applications for birth registration and late birth registration, but at the time of writing it is unclear whether this section of the website is fully operational.¹⁷⁴

Location of registration facilities

Under section 5 of the Registration Act the Minister may, by notice in the Gazette, appoint any area to be a “registration area” for the purposes of birth registration.

Capital city Yes (X) No ()

The City Hall in Nairobi.¹⁷⁵

Other cities Yes (X) No ()

¹⁷¹ The Beehive, “Birth Certificates”, available at <http://kenya.thebeehive.org/en/content/640/1755>.

¹⁷² Plan International (2), “Boosting Birth Registration in Kenya”, available at <http://plan-international.org/what-we-do/protection/boosting-birth-registration-in-kenya>.

¹⁷³ SAP, “Helping the Helpless: Invisible Children”, available at <http://news.sap.com/helping-helpless-invisible-children/>.

¹⁷⁴ E-Citizen, “Services and Information”, available at <https://www.ecitizen.go.ke/ecitizen-services.html>.

¹⁷⁵ Hapa Kenya, “How to apply for a birth certificate in Kenya”, available at <http://www.hapakenya.com/2014/08/21/how-to-apply-for-a-birth-certificate-in-kenya/>.

Villages Yes (X) No ()

Other _____

The registration area for births occurring on board ships on Lake Victoria within Kenya is Kisumu. The registration area for births occurring on board ships within coastal territorial waters is at the office of the registrar at Mombasa or at the office of the registrar nearest to the port of first arrival in Kenya of the ship upon which the birth occurred.¹⁷⁶

If a birth does not take place in a hospital or is not presided over by a community health worker, the parents are expected to report the birth of their child to the nearest government office (e.g. District Birth and Death Registries)¹⁷⁷ or government health centre to register the child as soon as possible after birth.¹⁷⁸

We have not been able to determine the specific location of other registration facilities. It appears that historically birth registration applicants had to travel to Nairobi in order to collect their birth certificates.¹⁷⁹ However, since the start of the compulsory registration of births throughout Kenya on 1 September 1971, Kenya has been working to decentralise the registration process. For example in 1983 applicants could collect their birth certificates in districts such as Mombasa, Kisumu, Nakuru, Kakamega and Nyeri.¹⁸⁰

Despite improvements in birth registration services, many Kenyans (especially those that live in remote areas) are still travelling long distances to collect their birth certificates. According to World Vision, even in November 2013 there were “*very few [birth registration] service delivery points*” and some Civil Registration Offices were “*inaccessible due to the long distances*” parents had to travel.¹⁸¹

In March 2015 the Kenyan government launched an e-Government integrated data system, called the Integrated Population Registration System.¹⁸² This central database system will consolidate Kenya's population registration data into a single system. The Kenyan government's implementation of the system will be split into the following two phases.

- The first phase will establish a National Population Register with data on all Kenyan citizens and foreign residents.

¹⁷⁶ Sections 3(1) and 3(2), Births and Deaths Registration Rules.

¹⁷⁷ Hapa Kenya, op.cit.

¹⁷⁸ J. Ayieye, op.cit.

¹⁷⁹ Republic of Kenya (1), "The National Assembly Official Report No. 150 Issue of Birth Certificates in Districts", Fourth Session Tuesday 15 March 1983 to Tuesday 12 July 1983, available at <https://books.google.com/books?id=stPvblb7zO0C>.

¹⁸⁰ Republic of Kenya, op. cit.

¹⁸¹ World Vision International, "Submission to OHCHR Report on Birth Registration", November 2013, available at <http://www.ohchr.org/Documents/Issues/Children/BirthRegistration/WorldVision.pdf>.

¹⁸² Presidency of Kenya, "Integrated data system to make e-government a reality", available at <http://www.president.go.ke/2015/03/11/integrated-data-system-to-make-e-government-a-reality/>.

- The second phase will establish and assign a unique identifier ("**PIN**") to every person's record at birth, which will act as a reference number in all future transactions regarding that person.

In a speech dated 11 March 2015 Kenyan President Uhuru Kenyatta stated:

*"For this system to work and sustain its integrity, we must be mindful of our civic duty. We must ensure that all births and deaths are officially reported, and transmitted to the National Population Register. We must also ensure that all aliens are documented. All Government officers responsible for registration of births and deaths must always ensure that this information is always up-to-date."*¹⁸³

Birth Registration is required for:

The website of the Directorate of Immigration and Registration of Persons contains guidance on what Kenyan citizens need to know about birth registration:¹⁸⁴

"Secure Your Future

- *Your record of birth is a source of information for good governance and is used by the government for planning and allocation of resources for education, health, water and sanitation and other sectors.*

Your Proof to Family Ties

- *Avoid disinheritance of your children in the event of your death.*
- *A birth certificate is the only official documentary evidence identifying you as the parent of your children.*

Your Ticket to FAST Acquisition of Essential Services

- *Your child's birth certificate will be required for school admission, for acquisition of a national identity card, for acquisition of a passport, for proof of kinship when making inheritance claims".*

Access to education

Yes (X) No () Law No specific law. See explanation below.

Section 43(1)(f) of the Constitution states that every person has the right to education. Section 53(1)(b) of the Constitution states that every child has the right to free and compulsory basic education.

¹⁸³ All Africa, "Kenya: President's Speech At the Launch of the Integrated Population Registration System", available at <http://allafrica.com/stories/201503111566.html>.

¹⁸⁴ Directorate of Immigration and Registration of Persons, "Information", available at <http://www.immigration.go.ke/Information.html>.

Section 7(1) of the Children Act (Cap. 141) ("**Children Act**")¹⁸⁵ states that every child shall be entitled to education, the provision of which shall be the responsibility of the Government and the parents. Section 7(2) entitles every child to free basic education.

Section 33(1) of the Basic Education Act (No. 14 of 2013) ("**Basic Education Act**")¹⁸⁶ states that, for the purpose of admission to a "basic education institution",¹⁸⁷ the age of a child shall be determined on the basis of the birth certificate or on the basis of such other document. Section 33(2) states that no child shall be denied admission to a school or basic education institution for lack of proof of age.

Section 47(2) of the Basic Education Regulations 2015 ("**Basic Education Regulations**")¹⁸⁸ defines the minimum age for admission into a primary school to be six years, and states that no person shall deny a child of school-going age admission in a primary school for lack of proof of age.

Despite the above legislative sources all providing for free and compulsory basic education, in 2010 the Kenyan Government introduced a measure that made the presentation of a birth certificate a mandatory requirement in order to register for national examinations. As such, children are unable to obtain school qualification certificates.¹⁸⁹ Refer to the following two sections for more detail.

Obtaining a primary school diploma

Yes (X) No () Law *No specific law. Please see explanation below.*

Without a birth certificate, children cannot register for the Kenya Certificate of Primary Education ("**KCPE**") examinations.¹⁹⁰

Obtaining a secondary school diploma

Yes (X) No () Law *No specific law. Please see explanation below.*

Without a birth certificate, children cannot register for the Kenya Certificate of Secondary Education ("**KCSE**") examinations.

The requirement of a birth certificate for a child's registration for the KCPE and KCSE began in 2010.¹⁹¹ The Assistant Minister for Education Professor Olweny has explained that the decision to implement the requirement for birth certificate was to enhance the integrity of examinations, which the Kenya National Examinations Council conducts. For example, it would help in the identification of

¹⁸⁵ Section 7(1), Children Act.

¹⁸⁶ Section 33(1), Basic Education Act.

¹⁸⁷ "Basic education institution" presumably is the same as "institution of basic education and training", the definition of which can be found in Part I, section 2 of the Basic Education Act.

¹⁸⁸ Section 47(2), Basic Education Regulations 2015.

¹⁸⁹ Republic of Kenya, "The National Assembly Official Report", Wednesday 10 March 2010, pp. 8-11, available at <https://books.google.com/books?id=a1uvS1xxFMYC>.

¹⁹⁰ Jill Craig, op.cit.

¹⁹¹ Section 10 of the Kenya National Examinations Council Act (Cap. 225A) gives the National Examinations Council power to make rules regulating the conduct of examinations.

candidates, the tracking of students and eliminate cheating.¹⁹² Interviews carried out by researchers for Plan International also suggest that an objective of the requirement was to increase the demand for birth registration.¹⁹³

Despite the above, there appears to be confusion and a lack of uniformity in practice amongst Kenyan officials regarding the implementation of the requirement of a birth certificate for a child to register for the KCPE and KCSE. In 2014, Plan International undertook a survey in four Kenyan communities that demonstrates such confusion. The table below has been extracted from Plan International's report.¹⁹⁴

Location	Students	Parents	Teachers/Officials
Riruta	The policy is fully implemented: students have been excluded from exams for lack of a birth certificate.	The policy is fully implemented: incidents of exclusion have occurred.	The policy is implemented flexibly: students are not turned away.
Kwangware	The policy is fully implemented: incidents of exclusion have occurred.	The policy is fully implemented: incidents of exclusion have occurred.	The policy is fully implemented: incidents of exclusion have not occurred because all children are ultimately registered.
Msambwani	The policy is fully implemented: some people do not take the exam.	The policy is fully implemented: Exclusion does not occur because students are sent away to get birth certificate before exams.	The policy is implemented flexibly: students are not turned away.
Kinango	The policy is implemented flexibly: 'Once you pay the exam fee they will let you take the exam.'	The policy is implemented flexibly: children might be turned away in secondary school, but never in primary school.	The policy is implemented flexibly: students are not turned away.

Access to health (emergency services only)

Yes () No (X) Law Section 43(2), Constitution of Kenya.

Section 43(2) of the Constitution states that a person shall not be denied emergency medical treatment.

Access to health (primary health services only)

Yes () No () Unclear (X) Law _____

Our research failed to find any Kenyan legislation that specifically permits children to access health services without birth certificates. However, it appears that children do not need birth certificates to access primary (or other) health services. Legislative provisions supporting this conclusion include:

- Section 9 of the Children Act states that every child shall have a right to health and medical care, the provision of which shall be the responsibility of the parents and the Government.

¹⁹² Republic of Kenya (2), op.cit.

¹⁹³ Plan International (1), op.cit., pp.45-47.

¹⁹⁴ Plan International (1), op.cit., p.43.

- Section 104 of the Public Health Act (Cap. 242) (“**Public Health Act**”)¹⁹⁵ requires the parent or guardian of every child in Kenya to ensure their child is successfully vaccinated by a public vaccinator.
- Section 110 of the Public Health Act requires public vaccinators to perform vaccinations free of charge.
- Section 112 of the Public Health Act states that an unvaccinated child cannot be admitted to or attend any school.
- In 2014, Plan International conducted various interviews and surveys in Kenya regarding the requirement of birth certificates to access health care. Its findings revealed that:¹⁹⁶
 - healthcare practitioners do not require patients to show identity documents to access care in Kenya; and
 - hospitals issue children with a “clinic card”, which helps health care workers and parents keep track of vaccinations; however access to health care appears to operate differently in Nairobi than in rural communities in and around Kwale.

The following is the relevant extract from Plan International's report:¹⁹⁷

“Participants in Nairobi reported that Kenya is moving towards a system of universal health care delivered through a national insurance scheme. Under the scheme it will be necessary to produce a birth certificate to claim a child as a dependent under the National Hospital Insurance Fund. This is an insurance programme, which is compulsory for all salaried employees, and is also available to self-employed individuals for a fee. As this system is fully implemented, it will become more important for parents to have documentation that proves their relationship with the child. The same issues will inevitably arise (as with Vietnam), regarding whether and how health services will be available to children who are not registered and do not have a birth certificate.”

Access to health (all services)

Yes () No () Unclear (X) Law _____

See the answer to the previous question 'Access to health (primary health services only)'.

Access to social security programmes / cash benefits

Yes () No () Unclear (X) Programme name *National Safety Net Programme*. Law _____

Social protection has been implemented in Kenya in many different forms for many decades, including various programmes created in response to emergencies. For example, the National Social Security Fund and the National Hospital Insurance Fund, established in 1965 and 1966 respectively, were part of the Kenyan Government's efforts to protect workers against future vulnerabilities.

In 2006 there was an African Union meeting in Livingstone, Zambia, following which the Government of Kenya initiated a wide consultative process to formulate a national social protection framework.

¹⁹⁵ Section 104, Public Health Act.

¹⁹⁶ Plan International (1), op.cit., pp. 55-56.

¹⁹⁷ Plan International (1), op.cit., p. 56.

Through this process, the Government has identified several key social protection actions in the areas of social assistance, social security, and health insurance.¹⁹⁸

In June 2011, the Kenyan Government developed a National Social Protection Policy.¹⁹⁹ This policy builds on the Constitution which, under section 43(f), provides for the *“right for every person... to social security and binds the State to provide appropriate social security to persons who are unable to support themselves and their dependents.”*

The Kenyan Government is currently in the process of implementing the Kenya National Safety Net Programme (**“NSNP”**). Earlier in 2015, the Kenyan Ministry of Labour, Social Security and Services invited eligible consulting firms to indicate their interest in providing services regarding the NSNP.²⁰⁰

The main aim of the NSNP is to improve the efficiency and effectiveness of safety net support to poor and vulnerable populations in Kenya by transitioning to a harmonised and coordinated national safety net framework.²⁰¹²⁰² The NSNP consists of the following four cash transfer programs:

- The Cash Transfers to Orphans and Vulnerable Children Programme.
- The Hunger Safety Net Programme.
- The Older Persons Cash Transfer.
- The People with Severe Disability Cash Transfer Programme.

The NSNP intends to implement complementary birth registration and use of national ID within the Cash Transfers to Orphans and Vulnerable Children programme, in order to increase the number of orphans and vulnerable children who have birth certificates.²⁰³

We were otherwise unable to find any other information as to whether children need birth certificates in order to access social security programs.

¹⁹⁸ Ministry of Gender, Children, and Social Development, "Kenya National Social Protection Policy", June 2011, p. 10, available at <http://www.hsnp.or.ke/index.php/our-work/nsnp>.

¹⁹⁹ Ministry of Gender, Children, and Social Development, op.cit., p. 10.

²⁰⁰ Ministry of Labour, Social Security and Services, "Request for Expressions of Interest (EOI)", (2015), available at <http://www.labour.go.ke/downloads/ADVERT%20ON%20MEDIA.pdf>.

²⁰¹ The World Bank, "e-Consult: Technical Assistance for Harmonized Targeting/Recertification and Consolidation Strategy for the National Safety Net Program: Technical Assistance for Harmonized Targeting/Recertification and Consolidation Strategy for the National Safety Net Program", 23 April 2015, available at <https://www.devex.com/projects/tenders/e-consult-technical-assistance-for-harmonized-targeting-recertification-and-consolidation-strategy-for-the-national-safety-net-program-technical-assistance-for-harmonized-targeting-recertification-and-consolidation-strategy-for-the-national/172692>.

²⁰² UNICEF, "UNICEF Annual Report 2014 Kenya", p. 67, available at http://www.unicef.org/about/annualreport/files/Kenya_Annual_Report_2014.pdf.

²⁰³ The World Bank, "The Technical Assessment of the Kenya National Safety Net Program for Results", (2013), p. 34, available at <http://siteresources.worldbank.org/PROJECTS/Resources/40940-1393966271292/KenyaNationalSafetyNetProgramforResultsTechnicalAssessment.pdf>.

Nationality

Yes () No (X) Law _____

Section 11 of the Children Act provides that every child has a right to a name and nationality, and that, where a child has been deprived of his identity, the Government should provide appropriate assistance and protection with a view to establishing his identity.

Section 14(1) of the Kenyan Constitution provides that a person is a citizen by birth if, on the day of the person's birth, whether or not the person is born in Kenya, either the mother or father of the person is a citizen. As such, a child born in Kenya, whose mother or father is a Kenyan citizen, automatically becomes a Kenyan citizen.

Moreover, section 14(4) of the Kenyan Constitution provides that a child found in Kenya who is, or appears to be, less than eight years of age, and whose nationality and parents are not known, is presumed to be a citizen by birth.

Identification card

Yes () No (X) Law _____

In Kenya, national identity cards are issued in line with the Registration of Persons Act (Cap. 107) ("**Registration of Persons Act**").²⁰⁴ The law makes it mandatory for all Kenyans who are 18 years and above to register and be issued with national identity cards. Failure to do so constitutes a criminal offence.

Section 5(1) of the Registration of Persons Act sets out the particulars which an applicant must provide for the purposes of registration. One of the particulars is the applicant's date of birth or apparent age. Under section 6(2) of the Registration of Persons Act and section 4(2)(a) of the Registration of Persons Rules 1949 ("**Registration of Persons Rules**"),²⁰⁵ where a person attends before a registration officer for the purpose of registration, the registration officer has the choice of demanding proof of the person's date of birth or apparent age by:

- production of their birth certificate;
- age assessment certificate issued by a Government medical officer of health;
- a baptismal certificate issued by a minister of a recognised religious organisation immediately following his birth; or
- some other evidence acceptable to the Principal Registrar.

Neither the Registration of Persons Act nor the Registration of Persons Rules makes any other mention of a "birth certificate". Plan International states in its report on "Birth Registration and Children's Rights" that in Kenya a person does not need to possess a birth certificate to acquire a national ID, although it is one of a range of acceptable identification documents.²⁰⁶

²⁰⁴ Registration of Persons Act (Cap. 107).

²⁰⁵ Registration of Persons Rules 1949.

²⁰⁶ Plan International (1), op.cit., p. 34.

Passport

Yes (X) No () Law Section 27(3)(a), *Kenya Citizenship and Immigration Act*.

Section 24 of the Kenya Citizenship and Immigration Act (Cap. 172) ("**Citizenship and Immigration Act**")²⁰⁷ states that every citizen is, subject to the provisions of the Citizenship and Immigration Act, entitled upon application, to be issued with a passport or other travel documents to facilitate international travel.

Section 27 of the Citizenship and Immigration Act sets out the requirements for an application for the issuance or replacement of a passport. Section 27(3)(a) provides that an applicant must accompany his or her application with either a birth certificate or an adoption certificate. Therefore, one would expect that in the majority of cases an applicant will produce his or her birth certificate in his or her application for the issuance of a passport. Form No. 19 "Application for a Kenya Passport" states that *"all applications must be accompanied by a previous passport, if any, or current national Kenya Identity Card, Birth Certificates plus certified photocopies of each"*.²⁰⁸

Other (Please specify e.g. enrolment for social protection programme/ food bank)

- If a child is orphaned and has no birth certificate, the child may be denied rightful property inheritance.²⁰⁹
- An Adoption Certificate is a document issued to every adopted child, and by law, is equivalent to a birth certificate, which every Kenyan needs as proof of identity.²¹⁰ It replaces a Birth Certificate in accordance with a legal procedure defined by section 169 of the Children Act.

References

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- Basic Education Regulations 2015;
- Births and Deaths Registration Act (Cap. 149);
- Births and Deaths Registration Rules 1966;
- Births and Deaths (Late Registration) Rules 1971;
- Children's Act (Cap. 141);
- Constitution of Kenya 2010;

²⁰⁷ Kenya Citizenship and Immigration Act (Cap. 172).

²⁰⁸ Directorate of Immigration and Registration of Persons, "Form 19 - Application for Kenya Passport", available at <http://www.immigration.go.ke/downloads/Form-19-Application%20for%20Kenya%20Passport.pdf>.

²⁰⁹ Jill Craig, op.cit.

²¹⁰ Global Movement for Children, "Kenya: Every Child Deserves a Birth Certificate", 18 July 2011, available at <http://www.gmfc.org/en/action-within-the-movement/africa/regional-news-in-africa/1132-kenya-every-child-deserves-a-birth-certificate>.

- Education Act (Cap. 211);
- Kenya Citizenship and Immigration Act (Cap. 172);
- Kenya National Examinations Council Act (Cap. 225A);
- Legitimacy Act (Cap. 145);
- Legitimacy Regulations 1961;
- Marriage Act (Cap. 150);
- Public Health Act (Cap. 242);
- Refugees Act (Cap. 173);
- Refugees (Reception, Registration and Adjudication) Regulations 2009;
- Registration of Persons Act (Cap. 107);
- Registration of Persons Rules 1949;
- Security Laws (Amendment) Act No. 19 of 2014;

Caselaw Reviewed:

- *Coalition for Reform and Democracy (CORD) & another v Republic of Kenya & another* [2015] eKLR, available at <http://kenyalaw.org/caselaw/cases/view/106083/>

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Appendix 1 - Birth Registration Forms

Form Nos 1, 2, 3, 4 & 5 included in the Schedule to the Births and Deaths Registration Rules 1966.

FORM No. 1

REGISTER OF BIRTH

DISTRICT:

REGISTRAR'S SERIAL NUMBER:

1. FULL NAME OF CHILD	Baptismal or given name(s)	Middle or tribal name	<input type="text"/>	Surname or tribal name of Father
Son or daughter of				

SCHEDULE, FORM No. 1—continued

2. DATE OF BIRTH	Date of Month: Month: Year	3. SEX OF CHILD Male 1 <input type="text"/> Female 2 <input type="text"/>		
4. FULL NAME OF FATHER	Baptismal or given name(s)	Middle or tribal name	<input type="text"/>	Surname or tribal name of Father
Son of				
5. FULL NAME OF MOTHER	Baptismal or given name(s)	Middle or tribal name	<input type="text"/>	Maiden surname or tribal name of her Father
Daughter of				
6. EXACT PLACE OF BIRTH	No. of house and street or road, if any	Name of town, if any, or Village, Sub-location and Location	If in Institution—name of hospital or medical centre	
7. NORMAL RESIDENCE OF MOTHER	If mother not normally resident at above place state district in which she lives			
8. CERTIFICATE TO BE COMPLETED BY INFORMANT				
Check capacity in which information given.	I hereby certify that I attended the above birth or have knowledge of the fact that the above child was born (alive) 1 <input type="checkbox"/> (dead) 2 <input type="checkbox"/> in the date and at the place specified and that I am the			
	1 <input type="checkbox"/> Mother of the child 2 <input type="checkbox"/> Father of the child 3 <input type="checkbox"/> Midwife who attended birth 4 <input type="checkbox"/> Medical Attendant 5 <input type="checkbox"/> or (specify)			
Signature..... Date Record Signed				
(If informant is illiterate he should add his mark and a witness to such mark should sign here)				

9. SIGNATURE OF REGISTRAR:

Date Record Received:

CONFIDENTIAL MEDICAL DATA

(This section must be completed as fully as possible)

10. AGE OF MOTHER AT BIRTH OF CHILD:	Years
11. IS MOTHER MARRIED TO FATHER? (By Ceremony, Custom, etc.):	Yes No
	1 <input type="checkbox"/> 2 <input type="checkbox"/>
12. PREVIOUS BIRTHS TO MOTHER:	Number Born Alive..... Number Born Dead
13. IF A PLURAL BIRTH, STATE WHETHER TWIN OR TRIPLET	
AND ORDER OF BIRTH (i.e. 1st or 2nd)	

NOTE—A separate record is required for each child.

SCHEDULE, FORM No. 1—*continued*

BINDING MARGIN

IMPORTANT—Use typewriter or ballpoint or the other pen with black or dark blue ink
This is a permanent legal record. Be sure the carbon copy legible

FORM No. 2

20 Births in the District of in the Province of

No.	Where born	Name	Sex	Name and surname of father	Father's occupation	Father's nationality	Name and maiden name of mother	Mother's occupation	Mother's nationality	Signature, description and residence of informant	Date of birth	Signature of Registering Officer	Date of registration	Baptismal name if added or altered after registration of birth
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FORM No. 3

Return of Births in the District of _____ in the Province of _____

No.	Where born	Name	Sex	Name and surname of father	Father's occupation	Father's nationality	Name and maiden name of mother	Mother's occupation	Mother's nationality	Signature, description and residence of informant	Date of birth	Signature of Registering Officer	Date of registration	Baptismal name if added or altered after registration of birth
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Witness my hand this day of 20 Registrar of Births, District

FORM No. 4

Birth in the		District in the		Province	
No.	/20	Where Born	Sex	Name	Name and Surname of Father
Date of Birth					
Name and Maiden Name of Mother					
Signature, Description and Residence of Informant					
Signature of Registering Officer				Date of Registration	

Baptismal Name if added or altered after Registration of Birth

Certified to be a true copy of a return/an entry in the Register of Births in the District above mentioned.

Given under the seal of the Registrar-General on the _____ day of _____ 20____

This certificate is issued in pursuance of the Births and Deaths Registration Act which provides that a certified copy of any entry in any register return purporting to be sealed or stamped with the seal of the Registrar-General shall be received as evidence of the dates and facts therein contained without any other proof of such entry.

FORM No. 5

Reference No.	
Registration District	
Name and Surname	
Sex	
Date of Birth	

Certified to have been compiled from records in the custody of the Registrar-General of Births and Deaths.

GIVEN under the Seal of the Registrar-General at Nairobi the day of 20

MOZAMBIQUE

QUESTIONNAIRE ON BIRTH REGISTRATION - MOZAMBIQUE

Key Points

- Births in Mozambique should be recorded at the Civil Registry within four months.
- The fee structure for birth registration is unclear, but there are exemptions and reductions for those on low incomes.
- Birth registration is required to obtain identity documents, such as a national identity card and a passport, but individuals' right to access essential services is protected by the Constitution.

Name of official authority in charge of registering a child's birth:

Registo Civil

Direcção Nacional dos Registos e Notariado (Av. Vladimir Lenine, n° 565 - 1° e 2° andares, Tel: 21324716, Fax: 314940 Cell: 823209340).

Where is the civil registry located in the government?

- ☒ (X) Ministry of Justice
- ☐ () Ministry of Interior
- ☐ () Electoral Agency
- ☐ () Independent Entity
- ☐ () Other

Law: Estatuto Organico do Ministerio do Justicia.²¹¹

Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?

Both *jus sanguinis* and *jus soli* are used to determine nationality in Mozambique in accordance with Articles 23 and 24 of the Constitution of the Republic of Mozambique ("**Constitution**").²¹²

Concerning *jus sanguinis*, a child of a Mozambican father or mother, even if born outside Mozambique, shall be Mozambican, if a declaration is made. In the event that a child of a Mozambican

²¹¹ Estatuto Organico do Ministerio do Justicia.

²¹² Constitution of the Republic of Mozambique.

father or mother working for the Mozambican State is born abroad, that child shall be Mozambican automatically.

Concerning *jus soli*, any child born in Mozambique shall be Mozambican from birth, with the exception of children born of a foreign parent who is employed by his/her own government. In this case, and within the term of a year, the parents will need to declare whether they wish the child to be nationalised as a Mozambican.

"Article 23

- 1. The following persons shall, provided that they were born in Mozambique, be Mozambicans:*
 - a) The children of a father or a mother who was born in Mozambique;*
 - b) Children whose parents are stateless or of unknown nationality;*
 - c) Those who were domiciled in Mozambique at the time of independence and did not choose any other nationality, expressly or tacitly.*
- 2. The children of a Mozambican father or mother working for the Mozambican State outside the country shall be Mozambicans, even if born abroad.*
- 3. The children of a Mozambican father or mother shall be Mozambican, even if born abroad, provided that they have expressly declared, either on their own behalf, if over eighteen years of age, or through their legal representatives, if younger, that they wish to be Mozambican.*

Article 24

- 1. Persons born in Mozambique after the proclamation of independence are Mozambican nationals.*
- 2. This rule shall not apply to children born of a foreign father and a foreign mother, when either of them is in Mozambique in the employ of the government of his or her country.*
- 3. The persons referred to in the preceding paragraph shall only have Mozambican nationality if they declare, for themselves if they are over eighteen years of age, or through their legal representatives if younger than this, that they wish to be Mozambican.*
- 4. The time limit for the declaration referred to in the preceding paragraph is one year, counting from the date of birth of the interested party, where the declaration is made by his or her legal representative, or from his or her eighteenth birthday, where the declaration is made personally."*

Is there any legal obligation to register children?

Yes (X) No ()

If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.

Lei n.º 12/2004 Código do Registo Civil (Civil Registration Code) ("**Código do Registo**").²¹³

In accordance with section 1 of the Código do Registo, the birth of a child must be recorded in the Civil Registry.

The fact of a birth will have force the moment the registration process is done and will have retroactive effect to the day the birth occurred.

Does the child need to be registered within a certain amount of time from birth?

Yes (X) No ()

If yes, by when?

In accordance with section 118 of the Código do Registo, every birth must be declared verbally within 120 days at the Civil Registry Office correspondent to the residence of the new-born.

The declaration of birth must be made by (in this order) (i) the parents, (ii) the member of the family closest to the birth, (iii) the head of the family, (iv) the director of the place where the birth took place, (v) the doctor or nurse who attended the birth, (vi) any person chosen by the father or mother to provide the declaration, or who has custody of the child, or (vii) a community or religious figure of authority located at the birth.

In the case of a declaration of birth made more than a year after the birth took place, only the parents may make the voluntary declaration. However, if the person to be registered is 14 years old or over, he or she can make the declaration on his or her own behalf.

Is a paper certificate issued as a result of the registration?

Yes (X) No ()

There are two different types of documents related to the registration of a birth: the Bulletin and the Personal Cell.

- Bulletin (sections 287 and 288 of the Código do Registo): after the birth is recorded in the Registry book, the Bulletin is delivered free of charge to the interested persons. It contains the full name, sex, date of birth, nationality and affiliation of the person registered. The Bulletin received from the Registry is the certification that the birth has been registered.

- Personal Cell (section 289 of the Código do Registo): this is a document properly filled in, initialled, and signed by the official and certified with the official seal. This is given to the person who declares the birth. It contains the full name, date of birth, nationality and affiliation of the person registered, the nationality of their parents, the date of registration and a registration number. The Personal Cell can be used to find the official certification of the birth in the Registry.

²¹³ Lei n.º 12/2004 Código do Registo Civil.

- Both the Bulletin and the Personal Cell may be completed by a white seal apostille (section 284 of the Código do Registo): this is an embossed seal stamped into certifications, bulletins and any other documents in order to make such documents up to the category of a Notary.

Different by region/area?

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

Is there a separate fee for the issuance of a paper certificate?

Yes () No (X)

The Bulletin is issued free of charge. It is unclear whether the issuance of the Personal Cell carries a separate fee from the registration.

Different by region/area

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

Birth Registration Fee

Yes () No () Conditional (X)

Section 380 of the Código do Registo establishes that there will be a fee for any act that is recorded in the Registry. However, there are exemptions from paying the fee for the categories listed in section 381 of the Código do Registo, while the registry fees will be reduced for the categories listed in section 383 (see below).

For registrations where inscription in the Registry has not been completed within four months of the birth, it is not possible to apply the exemptions or reductions in sections 381 and 382 of the Código do Registo. Therefore, the fee for registering the birth is 50 meticals (approximately USD 1.18).²¹⁴

If yes, amount in USD:

Approximately USD 1.18.

If it's conditional, please provide reasons/cases for exemption.

Section 381 of the Código do Registo provides that poor people are exempted from paying a registration fee. A person is considered poor, if their income is evidently insufficient to cover the cost of registration.

²¹⁴ All conversions are approximate and were made at the time of writing the report using a commercial exchange rate, available at www.xe.com.

Section 383 of the Código do Registo provides that the following categories of persons may benefit from a reduction in registry fees: (a) people employed for a salary under the minimum wage, (b) self-employed people with very reduced income, and (c) children under 14 years of age who are dependent on adults qualifying under sub-sections (a) or (b) and people included in an economic family unit who are dependent on adults qualifying under sub-sections (a) or (b).

Where a person is making a declaration of birth, a verbal statement declaring lack of sufficient means to cover the cost of registration will be considered adequate evidence to justify exemption, unless the civil servant carrying out the registration has a justified doubt that the person does lack sufficient means.

Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration')

Yes (X) No ()

Section 120 of the Código do Registo provides that, if the term to register the birth has expired, the Public Minister, Civil Registry Official or any other authority or person can register the birth at the expense of the liable person.

Additionally, section 374 of the Código do Registo provides for a fine in case of late registration. In accordance with section 379 of the Código do Registo, the amount of the fine will be decided by the deciding authority.

If yes, amount in USD: For registrations where inscription in the Registry has not been completed within four months of the birth, it is not possible to apply the exemptions or reductions in sections 381 and 382 of the Código do Registo. Therefore, the fee for registering the birth is 50 meticals (approximately USD 1.18).

Requirements for Birth Registration (tick what applies):

Identification of Child's Father (X) His Nationality (X)

Identification of Child's Mother (X) Her Nationality (X)

Marital Status (X)

In addition the following information is needed:

- Day, month and year of birth;
- District, administrative post and locality of birth;
- Sex of child;
- Name and surname of child;
- Full name of the grandparents.

Are Stateless / Refugee Births Registered?

Yes (X) No ()

Section 118 of the Código do Registo requires that all children born on Mozambican soil must be registered within 120 days from birth.

Are children of single parents registered?

Yes (X) No ()

Section 118 of the Código do Registo requires that all children born on Mozambican soil must be registered within 120 days from birth.

Are all children born in the territory registered?

Yes (X) No ()

Section 118 of the Código do Registo provides that all children born on Mozambican soil must be registered within 120 days from birth.

If no, please provide list of those not registered

Not applicable.

Other Requirements (if none, put n/a)

Section 48 of the Código do Registo states that the person who has made the declaration of birth should be identified in the registration itself. This is done by including their full name, state and habitual residence.

Registration System Set-up

Electronic Submission () Paper Submission (X)²¹⁵ Both ()

Location of registration facilities

In accordance with section 15 of the Código do Registo, there is a Civil Registry Office in each of the district administrative posts. The Civil Registry Office is responsible for registering the births, which have occurred in its district.

Capital city Yes (X) No () - Conservatoria / Registo Centrais

Other cities Yes (X) No () - Head of district, Registo (intermedio)

Districts where there are Administrative posts:

CABO-DELGADO PROVINCE

Mecúfi, Chiúre, Quissanga, Mocimboa da Praia, Namuno, Nangade, Ibo, Montepuez, Ancuabe, Mueda, Pemba-Metuge, Balama, Muidumbe, Meluco, Macomia, Palma, Ngaúma, Maúa, Mecanhelas, Lichinga, Mecula, Marrupa, Sanga, Metarica, Muembe, Mavago, Cuamba, Lago, Mandimba, Majune, Nipepe.

²¹⁵ This information was verified with the Mozambican Embassy in Spain.

NAMPULA PROVINCE

Memba, Murupula, Eráti, Ilha de Moçambique, Mossuril, Moma, Mogovolas, Malema, Ribáue, Nampula, Monapo, Nacala-Porto, Angoche, Muecate, Mogincual, Mecubúri, Nacala-a-Velha, Meconta, Lalaua, Nacorôa.

ZAMBÉZIA PROVINCE

Mopeia, Pebane, Morrumbala, Ile, Milange, Gurué, Alto-Molócue, Gilé, Lugela, Maganja da Costa, Namarrói, Nicoadala, Mocuba, Chinde, Inhassunge, Namacurra.

TETE PROVINCE

Mutarara, Marávia, Angónia, Macanga, Moatize, Changara, Tsangano, Mágoè, Zumbo, Chiúta, Chifunde, Cahora-Bassa.

MANICA PROVINCE

Machanze, Tambara, Manica, Báruè, Macossa, Mossurize, Gondola, Guro, Sussundenga.

SOFALA PROVINCE

Maringué, Machanga, Chibabava, Cheringoma, Marromeu, Chemba, Caia, Dondo, hamatanda, Muanza, Búzi, Gorongosa.

INHAMBANE PROVINCE

Panda, Massinga, Govuro, Inhassoro, Inharrime, Jangamo, Homoíne, Mabote, Zavala, Morrumbene, Vilankulo, Funhalouro.

GAZA PROVINCE

Chókwe, Bilene, Massingir, Massangena, Xai-Xai, Chicualacuala, Mandlakazi, Guijá, Chigubo, Chibuto, Mabalane.

MAPUTO PROVINCE

Namaacha, Boane, Marracuene, Moamba, Matutuíne, Manhiça, Magude.

Villages Yes (X) No () - Posto Itinerant Registry

Other: Diplomatic missions, boats, airplanes, military registers and other cases stipulated by law.

Birth Registration is required for:

Access to education

Yes () No (X) Law *Lei nº 7 / 2008 de Bases de Protecção da Criança*.²¹⁶

²¹⁶ Lei nº 7 / 2008 de Bases de Protecção da Criança.

In accordance with section 4 of Lei nº 7 / 2008 de Bases de Protecção da Criança ("**Protection for Education Act**"), every child enjoys fundamental human rights regardless of race, colour, sex, religion, birth origin, economic situation, health or disability. Section 7 provides that the State must ensure the child's access to education.

It should be noted that on 16 June 2003 Mozambique ratified the Minimum Age Convention declaring that 15 years old would be the minimum legal age for admission to work or employment, whereas Lei nº 7 / 2008 de Bases de Protecção da Criança considers a child to be any person under 18 years old.

Obtaining a primary school diploma

Yes () No (X) Law Section 40, Lei nº 7 / 2008 de Bases de Protecção da Criança.

Mozambique ratified the Convention on the Rights of the Child²¹⁷ on 26 April 1994. Sections 28, 29 and 33 of the Convention on the Rights of the Child require that States make primary education compulsory and available free to all.

Section 40 of Lei nº 7 / 2008 de Bases de Protecção da Criança also guarantees access to primary education free of charge (although this law does not mention the requirements for actual delivery of a diploma).

Obtaining a secondary school diploma

Yes () No (X) Law Section 40, Lei nº 7 / 2008 de Bases de Protecção da Criança.

Section 40 of Lei nº 7 / 2008 de Bases de Protecção da Criança guarantees access to secondary education free of charge (although this law does not mention the requirements for actual delivery of a diploma).

Access to health (emergency services only)

Yes () No (X) Law Sections 7, 13 and 17, Lei nº 7 / 2008 de Bases de Protecção da Criança.

The State must ensure that every child has access to healthcare, regardless of race, colour, sex, religion, birth origin, economic situation, health or disability.

Access to health (primary health services only)

Yes () No (X) Law Sections 7, 13 and 17, Lei nº 7 / 2008 de Bases de Protecção da Criança.

The State must ensure that every child has access to healthcare, regardless of race, colour, sex, religion, birth origin, economic situation, health or disability.

Access to health (all services)

Yes () No (X) Law Sections 7, 13 and 17, Lei nº 7 / 2008 de Bases de Protecção da Criança.

The State must ensure that every child has access to healthcare, regardless of race, colour, sex, religion, birth origin, economic situation, health or disability.

²¹⁷ Convention on the Rights of the Child.

Access to social security programmes/cash benefits

Yes (X) No () Programme name _____ Law *No specific law identified. See explanation below.*

Birth registration seems to be required in order to access social security programmes. However, in accordance with section 382 of the Código do Registo issuance of registry certificates for the purposes of admittance into State-run assistance or charity programmes or pensions is free of charge.

Nationality

Yes () No (X) Law *Section 26(4), Lei nº 7 / 2008 de Bases de Protecção da Criança.*

The State guarantees a child's right to preserve his or her identity, including his or her nationality, name and family ties.

Identification card

Yes (X) No () Law *Decreto nº 11 / 2008 de 29 de Abril do Conselho de Ministros.*²¹⁸

Those born before Decreto nº 11 / 2008 de 29 de Abril do Conselho de Ministros was issued must present a birth certificate, Personal Cell or their expired identification card in order to apply for a new identification card. Those born after the Decree was issued need to present a certificate verifying birth registration or an equivalent document.

Citizens born abroad can acquire an identification card at Mozambican diplomatic or consular missions by presenting proof of birth, i.e. a birth certificate or equivalent document issued by the authorities of the country of their birth.

For the concession, renewal or substitution of an identification card, there will be a charge of 90 meticals for minors under 18 (approximately USD 2.12) and 180 meticals for adults (approximately USD 4.32).

Passport

Yes (X) No () Law *Lei nº 5 / 1993 de 28 de Dezembro.*²¹⁹

To obtain a passport it is necessary to present an identification card or Personal Cell.

Other (Please specify e.g. enrolment for social protection programme/ food bank)

Not applicable.

References

Legislation Reviewed:

- Constitution of the Republic of Mozambique;

²¹⁸ Decreto nº 11 / 2008 de 29 de Abril do Conselho de Ministros.

²¹⁹ Lei nº 5 / 1993 de 28 de Dezembro.

- Decreto nº 11 / 2008 de 29 de Abril do Conselho de Ministros;
- Estatuto Organico do Ministerio do Justicia;
- Lei nº 5 / 1993 de 28 de Dezembro;
- Lei nº 12 / 2004 Código do Registo;
- Lei nº 7 / 2008 de 9 de Julho de Bases de Protecção da Criança.

International Treaties:

- Convention on the Rights of the Child, available at
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>
 (see also the ratification table available at
https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=iv-11&chapter=4&lang=en)
- Minimum Age Convention, available at
http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138
 (see also the ratification table available at
http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312283)

Further Sources:

- Embajada de la República de Mozambique en España, 'Registro Consular', available at
http://www.mozambique-emb.es/registro_consular
- Ministério da Educação e Desenvolvimento Humano, 'Legislação', available at
<http://www.mec.gov.mz/Legislacao/Pages/default.aspx>
- PGC Advogados, 'Nacionalidade Moçambicana', available at
<http://www.pgcadvogados.com/index.php?jp=aquisicao-da-nacionalidade-para-cidaoes-mocambique&lq>
- Portal do Governo de Moçambique, available at
<http://www.portaldogoverno.gov.mz/>
- Terras de Moçambique, 'Dedinho brasileiro na Unicef Moçambique', available at
<https://terrasdemozambique.wordpress.com/tag/lei-de-bases-de-protecao-da-crianca/>

PAKISTAN

QUESTIONNAIRE ON BIRTH REGISTRATION - PAKISTAN

Key Points:

- In Pakistan births must be registered within one month.
- Birth registration is free of charge, though late registration may incur a fee of between USD 0.5 and USD 2. The issuance of a computerised birth certificate will also incur a small charge.
- The core document which acts as a gateway to access many other public services is the Computerised National Identity Card ("**CNIC**"). It is currently possible to obtain a CNIC without prior birth registration.

Name of official authority in charge of registering a child's birth:

Children born in Pakistan

In Pakistan the registration of births is the responsibility of the provincial and local governments.²²⁰ In accordance with section 6 of the Births Deaths and Marriages Registration Act 1886 ("**Birth Registration Act**") each provincial government is required to establish a general registry office in order to maintain the register of births. This function is usually carried out by the Union Council.²²¹ Births are then recorded to the Civil Registration Management System computerised database ("**CRMS**") managed by the National Database and Registration Authority ("**NADRA**").²²²

Children born outside Pakistan

Outside Pakistan, the births of Pakistani citizens are registered at the Pakistani Mission or Consulate in the country where the child is born. If there is no Pakistani Mission or Consulate in the country, then the application should be filed at the nearest Pakistani Mission or Consulate to that country.²²³

Where is the civil registry located in the government?

() Ministry of Justice

(X) Ministry of Interior²²⁴

²²⁰ Article 142(c), Constitution of the Islamic Republic of Pakistan, available at: <http://pakistancode.gov.pk/UY2FqaJw2-apaUY2Fqa-apaUY2Fvbpw=-sg-jjjjjjjjjjjj-con-13197>. See also Abdur Rehman Cheema, "Registering Children and Securing the Future", available at <http://www.dailytimes.com.pk/opinion/29-May-2015/registering-children-and-securing-the-future>.

²²¹ Section 6, Births, Deaths and Marriages Registration Act 1886.

²²² Section 21, National Database Registration Authority Ordinance, 2000. The website of NADRA is available at <https://www.nadra.gov.pk/>.

²²³ Section 5, Pakistan Citizenship Act 1951; section 21, Pakistan Citizenship Rules 1952.

- () Electoral Agency
- () Independent Entity
- () Other

Law: Schedule 2, paragraphs 18(4) and 18(8) of the Rules of Business 1973²²⁵ state that the Ministry of Interior is responsible for issues relating to nationality, citizenship, naturalisation, and the National Database and National Data Warehouse for issuing national identity cards. However, although the Ministry of the Interior partners with NADRA at a national level,²²⁶ provincial governments and the Union Councils remain responsible for birth registration (see answer above).

Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?

The general rule used in Pakistan for determining nationality is *jus soli*.²²⁷ However, the courts' interpretation of section 4 of the Pakistan Citizenship Act 1951 ("**Citizenship Act**") was that the principle of birth in the country could not be read in isolation and independently of the other sections of the Citizenship Act concerning citizenship by descent in the case of the children of Afghan refugees. The courts decided that due to the "temporary" nature of the Afghans' presence in the country, the law should not apply to the Afghan population, and therefore children born to Afghan refugees in Pakistan were not granted Pakistani citizenship.²²⁸

If a child is born outside Pakistan and either the father or the mother of the child is a citizen of Pakistan and the child is registered with the proper authorities, then citizenship can be derived by descent (*jus sanguinis*).²²⁹

Is there any legal obligation to register children?

Yes (X) No ()

If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.

The National Registration Act 1973 (Act VI of 30 July 1973) ("**National Registration Act**") stipulates the obligation to register the births of newly born citizens.²³⁰ The National Registration Act contains the rules providing for the registration of citizens and issuance of identity cards to them.

²²⁴ Schedule 2 of the Rules of Business 1973.

²²⁵ Schedule 2 of the Rules of Business 1973.

²²⁶ NADRA website, "Local clients", available at <https://www.nadra.gov.pk/index.php/clients-a-partners/clients>.

²²⁷ Section 4, Pakistan Citizenship Act 1951.

²²⁸ US State Department, "Pakistan 2012 Human Rights Report", p. 33, available at <http://www.state.gov/documents/organization/204621.pdf>.

²²⁹ Section 5, Pakistan Citizenship Act 1951.

Does the child need to be registered within a certain amount of time from birth?

Yes (X) No ()

If yes, by when?

A child needs to be registered within one month of his/her birth.²³¹

If the child is born outside Pakistan, he/she should be registered no later than six months after the birth.²³²

Is a paper certificate issued as a result of the registration?

Yes (X) No ()

Section 23 of the Birth Registration Act provides that

"the Registrar of Births may at the time of registering any birth or death by the person giving notice of the birth or death, and on payment by him of the prescribed fee, give to the applicant a certificate in the prescribed form, signed by the Registrar, of having registered the birth or death".

In addition, a computerised birth certificate in English and Urdu can be obtained from NADRA called the "Child Registration Certificate" ("CRC").²³³ In accordance with the constitutional and legislative framework governing birth registration in Pakistan, the certificate is actually issued by the Union Council or other relevant local authority using the NADRA system.²³⁴

Different by region/area?

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

Is there a separate fee for the issuance of a paper certificate?

Yes (X) No ()

Additional fees are payable for child registration certificates obtained from NADRA.²³⁵ The current fee is 50 rupees (approximately USD 0.48).²³⁶

²³⁰ Section 4, National Registration Act 1973.

²³¹ Section 9, National Database Registration Authority Ordinance 2000.

²³² Section 21, Pakistan Citizenship Rules 1952.

²³³ NADRA, 'Child Registration Certificates', available at <https://www.nadra.gov.pk/index.php/products/certificates/crc>.

²³⁴ Birth Certificates Pakistan, "Obtaining a NADRA Birth Certificate", available at <http://birthcertificatespakistan.com/obtain-nadra-birth-certificate/>.

²³⁵ NADRA, op.cit.

Different by region/area

Yes (X) No ()

If it's different by region/or area, please provide us more detail.

The fees for birth certificates may differ in different districts of Pakistan. For example, the Lahore City District Government has agreed with NADRA to charge 100 rupees (approximately USD 0.95) for a computerised birth certificate.²³⁷

Birth Registration Fee

Yes () No () Conditional (X)

If yes, amount in USD:

See answer below.

If it's conditional, please provide reasons/cases for exemption.

If the child is born in Pakistan and his birth is registered within the time limits, the payment of a fee is usually not required. In case of late registration, certain fees shall apply (see question below).

However, the fees charged may vary in different regions of Pakistan. For example, the Lahore City District Government has agreed with NADRA that no fee would be incurred if the birth is registered within 60 days of the birth.²³⁸

If the child is born outside Pakistan, the birth registration fee depends on the country. For instance, in Australia the fee amounts to AUD 27 (approximately USD 19.61),²³⁹ while in the United States it is USD 5.²⁴⁰

Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration')

Yes (X) No ()

The fines for late registration of birth may differ in different districts of Pakistan. For example, in Lahore District, the Lahore City District Government has agreed with NADRA that the late registration fees should amount to the following:

- (1) if the registration took place within 60 to 100 days after the birth - 50 rupees (USD 0.48);

²³⁶ All conversions are approximate and made at the time of writing using a commercial exchange rate, available at www.xe.com.

²³⁷ Pakistan Today, "Rules changed for birth and death certificates", available at <http://www.pakistantoday.com.pk/2012/08/16/city/lahore/rules-changed-for-birth-death-certificates/>.

²³⁸ Pakistan Today, op.cit.

²³⁹ Pakistan's Missions in Australia, "Birth Registration", available at http://www.pakistan.org.au/birth_registration.php.

²⁴⁰ Embassy of the Islamic Republic of Pakistan in Washington DC, "Consular Services", available at <http://www.embassyofpakistanusa.org/consa1.php>.

- (2) if the registration took place within 101 to 200 days after the birth - 100 rupees (USD 0.95);
- (3) if the registration took place within 201 to 300 days after the birth - 150 rupees (USD 1.44);
- (4) if the registration took place after a period of more than 300 days after the birth - 200 rupees (USD 1.91).²⁴¹

Furthermore, a person, who does not without reasonable cause apply for registration under the National Database Registration Authority Ordinance 2000, shall, in addition to any other penalty to which he may be liable under any other law, be punishable by imprisonment for a term which may extend to six months, or by a fine not exceeding 50,000 rupees (approximately USD 478), or both.²⁴²

If yes, amount in USD:

See answer above.

Requirements for Birth Registration (tick what applies):

Identification of Child's Father (X) His Nationality (X)

Identification of Child's Mother (X) Her Nationality (X)

Marital Status (X)

The requirements for registering births may differ in different districts within Pakistan. This is because the Union Councils and other relevant local authorities maintain responsibility for registering births and have created their own application forms.²⁴³

Applications for a CRC require the CNIC numbers of the child's parents.²⁴⁴

Are Stateless / Refugee Births Registered?

Yes (X) No ()

The main pieces of legislation governing birth registration apply to citizens of Pakistan. Given that section 4 of the Citizenship Act states that every person born in Pakistan after the commencement of the Citizenship Act shall be a citizen of Pakistan by birth, all births should be registered. However, as stated above, the Pakistani courts have ruled that the children of Afghan refugees in Pakistan do not automatically get citizenship by means of *ius soli*. It is, therefore, unclear whether there is an obligation to register the birth of refugee children.

²⁴¹ Pakistan Today, op.cit.

²⁴² Section 30, National Database Registration Authority Ordinance, 2000.

²⁴³ See, for example, Punjab Local Government and Community Development Department, "FAQs: Birth Registration", available at <http://lgcd.punjab.gov.pk/FAQ>.

²⁴⁴ CRC Application Form, available at <http://gotest.pk/wp-content/uploads/2014/03/NADRA-B-Form.pdf>.

Are children of single parents registered?

Yes (X) No ()

There is no specific provision preventing the birth registration of children of single parents. The Birth Registration Act²⁴⁵ states that a birth will be registered if it is notified in the prescribed mode within the prescribed time by an authorised person. The National Registration Act provides that "every" citizen must be registered.²⁴⁶

Are all children born in the territory registered?

Yes (X) No ()

See previous answers.

If no, please provide list of those not registered

Not applicable.

Other Requirements (if none, put n/a)

Not applicable.

Registration System Set-up

Electronic Submission () Paper Submission () Both (X)

Location of registration facilities

Capital city Yes (X) No ()

Other cities Yes (X) No ()

Villages Yes (X) No ()

Other _____

The relevant legislative framework can be found in section 3 of the National Registration Act; section 6 and Chapter III of the Birth Registration Act; and section 3 of the Pakistan Citizenship Rules.

Birth Registration is required for:

Access to education

Yes () No () Unclear (X) Law _____

²⁴⁵ Sections 19 and 20, Births, Deaths and Marriages Registration Act 1886.

²⁴⁶ Section 4, National Registration Act 1973.

The Eighteenth Constitutional Amendment (Act 10 of 2010)²⁴⁷ supplements into the Constitution of Pakistan (under Article 25A)²⁴⁸ the requirement that:

“the state shall provide free and compulsory education to all children of the age of five to sixteen years in such manner as may be determined by law”.

Article 37 of the Constitution further provides that:

"The State shall:

- (a) promote, with special care, the educational and economic interests of backward classes or areas;*
- (b) remove illiteracy and provide free and compulsory secondary education within minimum possible period;*
- (c) make technical and professional education generally available and higher education equally accessible to all on the basis of merit".*

While there is no specific provision that requires proof of birth registration, section 12 of the Right to Free and Compulsory Education Act 2012²⁴⁹ states that:

“for the purposes of admission to a school, the age of the child shall be determined on the basis of the Form-B Nadra and birth certificate issued as prescribed”²⁵⁰.

However it goes on to state that: *"no child shall be denied admission in a school for lack of proof of age"*.

Telephone discussions with the Ministry of Education, NADRA and the Ministry of Information²⁵¹ have indicated that while there is no “written rule” that requires the evidence of birth registration at the time of enrolment to school, it is an assumed rule (although they also conceded that in a small percentage of cases this unwritten rule is not enforced).

Obtaining a primary school diploma

Yes () No () Unclear (X) Law _____

We found no law that stipulates that evidence of birth registration is required before the issuance of a primary school diploma. However, please see the previous answer on "Access to education".

Obtaining a secondary school diploma

Yes () No () Unclear (X) Law _____

²⁴⁷ Section 9, Eighteenth Constitutional Amendment Act (Act No. 10 of 2010).

²⁴⁸ Article 25A, Constitution of the Islamic Republic of Pakistan.

²⁴⁹ Section 12, Right to Free and Compulsory Education Act 2012 (Act No. 24 of 2012).

²⁵⁰ Please note that "Form B" is the term often used to describe a child registration certificate (CRC).

²⁵¹ Conversations were held primarily with Azizullah Khan at the Ministry of Information. We endeavoured to get written confirmation of these conversations, but they were not forthcoming.

We found no law that stipulates that evidence of birth registration is required before the issuance of a secondary school diploma. However, please see the previous answer on "Access to education".

Access to health (emergency services only)

Yes () No (X) Law *Injured Persons (Medical Aid) Act 2004*²⁵²; *Sindh Injured Persons (Medical Aid) Act 2014*²⁵³; and *Khyber Pakhtunkhwa Injured Persons and Emergency (Medical Aid) Act 2014*.²⁵⁴

Section 3 of the Injured Persons (Medical Aid) Act 2004 states that "[w]here an injured person is brought to a hospital, he shall be provided with medical aid on a priority basis over all other medico-legal formalities".

This wording is reproduced in section 3 of the Khyber Pakhtunkhwa Injured Persons and Emergency (Medical Aid) Act 2014 and section 3 of the Sindh Injured Persons (Medical Aid) Act 2014.

The rule-making power in section 14 of these three Acts provides for both the federal or provincial governments to make rules to carry out the purposes of the Acts, but we have not found that any such rules have been published.

Access to health (primary health services only)

Yes () No (X) Law _____

No legislation appears to exist at either federal or provincial level requiring birth registration for access to health services. In reality, proof of identity requirements are likely to vary over time and from one medical facility to another.

The public health system has notably low utilisation rates. Only 20-30% of primary health care is delivered by the public sector. Institutional frameworks at the district and provincial levels are insufficiently developed and suffer from a lack of adequate regulation and supervision from health authorities at the federal and provincial/district levels.²⁵⁵ Coordination of health functions has been affected by the political devolution process undertaken in 2011, when responsibilities were transferred from the Federal Ministry of National Health Services Regulation and Coordination to its provincial counterparts.²⁵⁶ This process was subsequently reversed in 2013.

The majority of primary health services are delivered by the private sector. In general, affordability is a more significant factor than proof of identity in determining access to primary health services across Pakistan.

²⁵² Injured Persons (Medical Aid) Act 2004 (Act No. 12 of 2004).

²⁵³ Sindh Injured Persons (Medical Aid) Act 2014 (Act No. 20 of 2014).

²⁵⁴ Khyber Pakhtunkhwa Injured Persons and Emergency (Medical Aid) Act 2014 (Act No. 36 of 2014).

²⁵⁵ World Health Organisation, "Country Cooperation Strategy for WHO and Pakistan 2011-2017", (2013), available at http://www.who.int/countryfocus/cooperation_strategy/ccs_pak_en.pdf?ua=1.

²⁵⁶ Sania Nishtar, "Health Systems in Pakistan - a Way Forward", p. 75, available at <http://www.heartfile.org/pdf/phpf-GWP.pdf>.

Access to health (all services)

Yes (X) No () Law _____

While there is no specific legislation requiring birth registration, in practice there are situations where non-registration may hinder an individual's access to medical facilities. Policies vary according to the type of service being accessed and the location.

Provision of government services depends on an accurate assessment of population needs within a given area. In order to qualify for establishing a health facility, the government requires a catchment population of 20,000 individuals. Many communities are without a health facility in the absence of accurate population figures.²⁵⁷

Access to social security programmes/cash benefits

Yes () No (X) Programme name _____ Law _____

The Benazir Income Support Program ("**BISP**") is the largest social security programme in Pakistan.²⁵⁸ BISP was established under the Benazir Income Support Programme Act 2010. Whilst BISP provides a number of benefits including education grants (Waseela e Taleem), life insurance (Waseela-e-Sehet), micro financing (Waseela-e-Haq) and training (Waseela-e-Rozgar), its flagship programme provides the main cash benefit through bimonthly non-conditional payments to low income families who have qualified for financial assistance.

When introduced in 2008, beneficiaries of the BISP were identified through parliamentary recommendation, however a 'Poverty Scorecard' system was implemented in 2009 to ensure funds were distributed to families most in need.²⁵⁹ We were unable to locate any implementing regulations that described how applications for any of the described payments were made, or what evidence applicants needed to establish.²⁶⁰ However, in practice it appears that women receiving payments under the programme must first be registered and issued with a BISP card, which itself requires the production of a Computerised National Identity Card or CNIC in order to register.²⁶¹ As detailed below, a birth certificate is not a necessity for obtaining a CNIC.

The Zakat and Ushr Ordinance 1980 draws on the Islamic injunction of charity to establish a fund to provide cash benefits to applicants. Despite being the second largest programme in Pakistan, this fund ("**Zakat Programme**") has seen a marked decrease in both funding and grants since the

²⁵⁷ World Vision International, "Every Child Counts: Empowerment through Registration", available at <http://www.wvi.org/pakistan/article/every-child-counts-empowerment-through-registration>.

²⁵⁸ Benazir Income Support Programme, "At a Glance", available at <http://www.bisp.gov.pk/>.

²⁵⁹ Benazir Income Support Programme, "Poverty Survey", available at http://www.bisp.gov.pk/poverty_survey.aspx.

²⁶⁰ To the contrary, it appears that an audit in 2013 found that Rs74.412 billion had been disbursed to eligible persons without the proper regulations being passed by the BISP Board. See Asad Kharal, Tribune, 20 May 2013. Available at: <http://tribune.com.pk/story/551740/audit-report-irregular-payment-of-rs74-billion-bisp-money/>.

²⁶¹ Associated Press, Dawn, 17 April 2012. <http://www.dawn.com/news/711177/in-pakistan-welfare-scheme-shows-signs-of-success>.

programme was made voluntary in 1999.²⁶² Unlike the BISP, the Zakat Programme has no specific class of beneficiaries that it targets. The programme operates under the principle that deserving needy (mustahqeen) Muslims are to be given assistance, particularly widows, orphans, the disabled and the unemployed. Again, the programme includes many different grants, including a sustenance allowance (guzara), educational stipends (specially for students of madrassas), health care, social welfare rehabilitation, marriage assistance, Eid grants and leprosy patient payments. Eligibility is determined by local councils and does not appear to be conditional on the production of evidence of birth registration.

The Provincial Employee's Social Security Ordinance 1965 ("**Social Security Ordinance**") provides for multiple social security payments, including a sickness benefit (section 35), maternity benefit (section 36), death grant (sections 37 and 43), medical care during sickness (section 38), injury benefit (section 39), disability pension (section 40 and 41), survivors' pension (section 42) and workers' compensation (section 44). No provisions of the Social Security Ordinance explicitly require a beneficiary to produce a birth certificate in order to receive such benefits.

However, regulation 33 of the Provincial Employees' Social Security (Contributions) Regulations 1967 ("**Social Security Regulations**") provides that:

"[i]f a claimant is unable to produce a birth certificate or other satisfactory evidence of the exact date of birth of any child, the age on the first day of January next following shall be determined by the Institution on the basis of an examination of the child by a medical practitioner".

Furthermore, regulation 3 requires employers to return a Form R-2 for each 'secured person' on their premises. As part of this Form R-2, the employer must list the CNIC number of their employee. We were unable to obtain the back page to the Form R-2. However, we have been informed that it contains instructions on what documents have to be submitted along with the completed form in order to provide proof of identity.

Nationality

Yes () No () Unclear (X) Law _____

Section 4 of the Citizenship Act provides that every person born in Pakistan after the commencement of the Citizenship Act shall be a citizen of Pakistan by birth.

However, whilst there are no explicit legislative provisions requiring birth registration for Pakistani citizenship, in practice where no birth certificate can be produced, then it could be difficult for the child to prove an entitlement to citizenship.

Identification card

Yes () No (X) Law _____

²⁶² Shanza N. Khan and Sara Qutub, "The Benazir Income Support Programme and the Zakat Programme - A Political Economy Analysis of Gender", Overseas Development Institute, p.18, available at <http://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/7247.pdf>.

In Pakistan the official identification card is the Computerised National Identity Card or CNIC, which is issued by NADRA.

CNIC applicants are required to produce the following documents at the time of application:²⁶³

- birth certificate;
- old National Identity Card;
- matriculation certificate;
- CNICs of immediate/blood relatives; or
- citizenship certificate issued by the Ministry of the Interior.

Accordingly, provided that an applicant can provide one of the alternative documents, a birth certificate is not a necessity for obtaining a CNIC.

Passport

Yes () No (X) Law _____

Applicants for passports are required to produce a number of supporting documents. The key document appears to be the CNIC (see previous section above regarding the CNIC requirements).²⁶⁴

For applicants aged 18 and over, the following documents are required:

- Original bank challan (receipt) with appropriate fee deposits;
- Original CNIC issued by NADRA with two photocopies;
- Old passport with its photocopy, if issued;
- NOC in case of a Government Servant;²⁶⁵
- Foreign passport along with its photocopy, for dual-nationality holders only.

For applicants aged under 18, the following documents are required:

- Original bank challan (receipt) with appropriate fee deposits;
- Original Computerised Registration Certificate (CRC) issued by NADRA with two photocopies;
- Parents' CNIC with a photocopy of each;
- Foreign passport along with its photocopy, for dual-nationality holders only.

Other (Please specify e.g. enrolment for social protection programme/ food bank)

The Employees' Old Age Benefits Act 1976 ("**Employees' Old Age Benefits Act**")²⁶⁶ provides an old age pension to qualifying employees of establishments who have contributed to a fund. No provisions

²⁶³ CNIC documentation requirements are set out on the NADRA website at https://www.nadra.gov.pk/index.php?option=com_content&view=article&id=6&Itemid=9; and https://www.nadra.gov.pk/docs/cnic_checklist.pdf.

²⁶⁴ Directorate General of Immigration and Passports, "Requirement for MRP", available at <http://www.dgip.gov.pk/Files/Ordinary%20Passport.aspx>.

²⁶⁵ The term "NOC" appears in the relevant source. We have been unable to establish its exact meaning.

of the Employees' Old Age Benefits Act explicitly require a beneficiary to produce a birth certificate in order to receive such benefits. However, in practice a birth certificate could be useful given that benefits are tied to the age of the claimant: in accordance with sections 21 and 21A, generally, men may claim after the age of 60 and women from the age of 55.

Regulation 7 of the Employees' Old Age Benefits Regulations 1980 (General) ("**Employees' Old Age Benefits Regulations**")²⁶⁷ provides a list of seven documents that would be accepted as proof of age, including (in order of preference) a 'certified extract from Municipal Birth Register', matriculation certificate, extract from Government record (e.g. service book, civil list), baptismal certificate, horoscope (for Hindus only), CNIC or an affidavit from the parents or other elder relatives.

The Workers Welfare Fund Ordinance 1971 ("**Workers Welfare Fund Ordinance**")²⁶⁸ provides low cost housing, education grants, marriage grants and death grants for eligible workers. No provisions of the Workers Welfare Fund Ordinance explicitly require the production of a birth certificate for the worker to qualify for assistance under the scheme. However, the forms provided on the Workers Welfare Fund's website all require applicants (and beneficiaries in the case of the death grant) to provide their CNIC and social security cards in order to claim payments.²⁶⁹

The Workmen's Compensation Act 1923 ("**Workmen's Compensation Act**")²⁷⁰ requires employers to provide compensation to certain employees who are injured in the course of their employment. No provision of the Workmen's Compensation Act explicitly requires the production of a birth certificate for a worker to qualify for assistance under the scheme. "Dependents" may claim under the scheme where their provider is fatally killed in a workplace injury (see section 8). The definition of "Dependents" in the Workmen's Compensation Act draws on multiple relations who are "Minors", or below the age of 15 (see section 2). Section 18 of the Workmen's Compensation Act specifically provides that where a question as to age of a person injured arises, a valid certificate issued under the Factories Act 1934 ("**Factories Act**")²⁷¹ shall be conclusive proof of the age of that person. Sections 12 and 52 of the Factories Act provide that a 'qualifying surgeon' may issue a certificate in the prescribed form. Hence, evidence of an injured worker or a dependent's age can be established without a birth certificate.

The Companies Profits (Workers' Participation) Act 1968 ("**Companies Profits Act**")²⁷² requires certain companies to make mandatory distributions into a workers fund, for the benefit of its workers who may draw on such profits. No provision of the Companies Profits Act explicitly requires qualifying

²⁶⁶ Employees' Old Age Benefits Act 1976.

²⁶⁷ Employees' Old Age Benefits Regulations 1980 (General).

²⁶⁸ Workers Welfare Fund Ordinance 1971.

²⁶⁹ Worker Welfare Fund, "Downloads", available at <http://www.wwf.gov.pk/gop/index.php?q=aHR0cDovLzE5Mi4xNjguNzAuMTM2L3d3ZndiYi9mcm1EZXRhaWxzLmFzcHg%2Fb3B0PW1pc2NsaW5rcyZpZD0yNg%3D%3D>.

²⁷⁰ Workmen's Compensation Act 1923.

²⁷¹ Factories Act 1934.

²⁷² Companies Profits (Workers' Participation) Act 1968.

workers to produce a birth certificate in order to qualify for such distribution. We are not aware of any implementing regulations relevant to the Companies Profits Act.

Under the Workers' Children (Education) Ordinance 1972 ("**Education Ordinance**")²⁷³ workers of certain employers are entitled to send their children to free matriculation (see section 4). Such matriculation is funded by a levy on employers of more than 10 employees (see section 3). No provision of the Education Ordinance explicitly requires qualifying workers to produce a birth certificate in order to qualify for such distribution.

Under the West Pakistan Maternity Benefit Ordinance 1958 ("**West Pakistan Maternity Benefit Ordinance**")²⁷⁴, women working in factories (which under section 1(j) of the Factories Act is defined broadly to include premises with 10 or more workers where manufacturing is carried out) are required to show either a "*certified extract from a birth registry or a certificate signed by a medical practitioner, or such other proof as may be accepted by the employer*" in order to obtain part of their maternity leave payments (see section 5(3) and (4)). Similar provisions are contained in section 5(4) of the Khyber Pakhtunkhwa Maternity Benefits Act 2013,²⁷⁵ which replaces the West Pakistan Maternity Benefit Ordinance in the territory of Khyber Pakhtunkhwa.

Under the Mines Maternity Benefit Act 1941 ("**Mines Maternity Benefit Act**")²⁷⁶, women working in mines are required to furnish proof of their birth in order to receive part of their maternity payment, the amount of such payment depends on which stage in their pregnancy the woman is at when the payment is first claimed (see sections 7, 8(2) and 9(2)). Please note that we were unable to obtain copies of the regulations for the Mines Maternity Benefit Act to determine what constituted "*furnish[ing] proof of the prescribed nature*", and specifically whether a birth certificate was sufficient proof.

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²⁷³ Workers' Children (Education) Ordinance 1972.

²⁷⁴ West Pakistan Maternity Benefit Ordinance 1958.

²⁷⁵ Khyber Pakhtunkhwa Maternity Benefits Act 2013 (Khyber Pakhtunkhwa Act No. 18 of 2013).

²⁷⁶ Mines Maternity Benefit Act 1941.

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SWAZILAND

QUESTIONNAIRE ON BIRTH REGISTRATION - SWAZILAND

Key Points

- It is compulsory to register births in Swaziland within 60 days, although registration rates remain low, particularly in rural areas.
- A fee waiver initiative has been established to boost the number of registrations.
- In practice, birth registration may be required to access public services, even where this is not expressly required by legislation.

Name of official authority in charge of registering a child's birth:

Office of the Registrar General - administered by:

- Registrar General (Registrar of Births, Marriages and Deaths);
- Senior Assistant Registrar;
- Assistant Registrar;
- District Registrars;
- Assistant District Registrars;
- Other "registration information officers" as prescribed under section 3(3) of the Births, Marriages and Deaths Registration Act 1983 ("**Registration Act**").²⁷⁷

In accordance with section 2 of the Registration Act, the term 'Registrar' "*means the person appointed in the public service to be Registrar-General or Senior Assistant Registrar or Assistant Registrar and includes any person acting in any of the capacities*".

Where is the civil registry located in the government?

- () Ministry of Justice
- (X) Ministry of Interior - Ministry of Home Affairs
- () Electoral Agency
- () Independent Entity
- () Other

Law: The Registration Act gives the 'Minister responsible for legal affairs' the power to hear appeals against the Registrar's decisions on late registration and to make regulations in accordance with the

²⁷⁷ Births, Marriages and Deaths Registration Act 1983.

Registration Act.²⁷⁸ The website of the Ministry of Home Affairs suggests that the Civil Registration Department is part of the Ministry of Home Affairs and that the responsible Minister is the Minister for Home Affairs.²⁷⁹

Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in its constitutional framework?

Jus sanguinis. See sections 41-43 of the Constitution of the Kingdom of Swaziland ("**Constitution**").²⁸⁰

"Citizenship by descent

41. A person born, whether before or after the commencement of this Constitution and whether in or outside of Swaziland, is a citizen by descent if by birth that person is a descendant.

Citizenship by operation of law

42. (1) A person born in or outside Swaziland before the commencement of this Constitution shall be a citizen of Swaziland by operation of law if at the birth of that person one of the parents was a citizen of Swaziland.

(2) In this section "citizen by operation of law" refers to a person who was born before the existence of the status of a citizen of Swaziland and was a member of a class of persons -

(a) generally regarded as Swazi by descent; and

(b) subsequently declared by law to be citizens of Swaziland.

(3) This section shall cease to apply to a person being a citizen of another country who, on being so required by the Board in terms of section 49 (1) (d), has failed to renounce that other citizenship -

(a) within one year after that person attains the age of majority (or within such extended period as the Board may allow); or

(b) where that person attained the age of majority before the commencement of this Constitution, within one year after that commencement (or within such extended period as the Board may allow).

Citizenship by birth

²⁷⁸ Sections 2, 7 and 35, Births Deaths and Marriages Registration Act 1983.

²⁷⁹ Swaziland Ministry of Home Affairs, "Civil Registration Services", available at http://www.gov.sz/index.php?option=com_content&id=311&Itemid=441.

²⁸⁰ Constitution of the Kingdom of Swaziland Act 2005, available at http://www.icla.up.ac.za/images/constitutions/swaziland_constitution.pdf. A copy of the Constitution was also provided by UNICEF.

43. (1) A person born in Swaziland after the commencement of this Constitution is a citizen of Swaziland by birth if at the time of birth the father of that person was a citizen of Swaziland in terms of this Constitution.

(2) A person born outside Swaziland after the commencement of this Constitution is a citizen of Swaziland if at the time of birth the father of that person was a citizen of Swaziland in terms of this Constitution.

(3) A person born outside Swaziland who becomes a citizen by virtue of subsection (2) shall cease to be a citizen if the father of that person was also born outside Swaziland unless, within one year after attaining the age of majority (or within such extended time as the Board may allow) that person notifies the Board in writing of the desire to retain the citizenship of Swaziland.

(4) Where a child born outside of marriage is not adopted by its father or claimed by that father in accordance with Swazi law and custom and the mother of that child is a citizen of Swaziland, the child shall be a citizen of Swaziland by birth.

(5) A child adopted, whether before or after the commencement of this Constitution, under the legislation relating to the adoption of children or under customary law, shall, if not already a citizen, be deemed to be a citizen of Swaziland by birth if, at the time of adoption the adoptive parent was a citizen of Swaziland or would have been a citizen if this Constitution were in force."

Is there any legal obligation to register children?

Yes (X) No ()

If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.

The Registration Act²⁸¹ governs the civil registration of births, marriages and deaths for citizens of Swaziland. The Registration Act provides for (amongst other things) the compulsory registration of all births, whether live or stillborn.

Guidance from the Ministry of Home Affairs denotes that if the parents are married and both of them are Swazi citizens, then it is the father who signs the application.²⁸²

Children born outside of Swaziland

Section 22 of the Registration Act empowers the Registrar to keep a separate register detailing any births of Swazi citizens which have occurred outside of Swaziland.

In accordance with section 23(1) of the Registration Act, the application to register the birth should be made to the Registrar, or to the ambassador or other representative of Swaziland in the country where the birth occurred.

²⁸¹ No Gazette number specified.

²⁸² Swaziland Ministry of Home Affairs, "Civil Registration", available at http://www.gov.sz/index.php?option=com_content&catid=81%3Ahome-affairs&id=1368%3Acivil-registration&Itemid=304.

Does the child need to be registered within a certain amount of time from birth?

Yes (X) No ()

If yes, by when?

Section 15 of the Registration Act states that the prescribed notice of birth must be submitted within 60 days. The Registrar has the power to approve a discretionary extension of this deadline on written application (through submission of Forms BMD1 and BMD 6)²⁸³ and the payment of a fee.²⁸⁴

Children born outside of Swaziland

Where any child is born outside of Swaziland to Swazi citizens, section 23(1) of the Registration Act provides that the birth must be registered within 90 days of the birth, or such longer period as the Registrar may permit following a written application. Section 23(2) of the Registration Act states that the application shall be accompanied by an appropriate fee (see comments below).

Is a paper certificate issued as a result of the registration?

Yes (X) No ()

Section 28 of the Registration Act states that the birth certificate is to be in the "prescribed form". However, there are no further details in the Registration Act as to the format or content of the certificate.²⁸⁵

Differs by region/area?

Yes () No (X)

If it's different by region/or area, please provide us with more detail.

Not applicable.

Is there a separate fee for the issuance of a paper certificate?

Yes () No (X)

Differs by region/area?

Yes () No (X)

If it's different by region/or area, please provide us with more detail.

Not applicable.

²⁸³ These forms cannot be accessed online.

²⁸⁴ Section 7, Births, Marriages and Deaths Registration Act 1983.

²⁸⁵ Please note, however, that the report "The Current Status of Vital Statistics and Civil Registration Systems in Swaziland" by B. Shongwe and A. Zwane (27 October 1994), available at http://unstats.un.org/unsd/demographic/meetings/wshops/1994_Ethiopia_CRVS/docs/Doc.19_Swaziland.pdf states that the form should contain details of (1) the child's name; (2) the date and place of birth; (3) parentage and (4) citizenship.

Is there a Birth Registration Fee?

Yes (X) No () Conditional ()

If yes, amount in USD:

USD 0.70²⁸⁶ to USD 1.60²⁸⁷ (see additional note on registration fees and the fee waiver initiative).

If it's conditional, please provide reasons/cases for exemption.

Not applicable.

Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration')

Yes (X) No ()

If yes, amount in USD:

Approximately USD 1.30²⁸⁸ (see additional note on registration fees and the fee waiver initiative).

Additional note on registration fees:

It is widely accepted that registration fees are one of the major discouraging factors in registering the birth of a child in Swaziland.²⁸⁹ As such, campaigns have been instigated in order to remove this barrier from birth registration. For example, a joint campaign between UNICEF and Swaziland's Ministry of Justice and Constitutional Affairs was launched in 2005, which exempted birth certificate fees for all children below 18 years of age.²⁹⁰ In practice, the service is now offered free of charge for registrations within 60 days, and this will be incorporated in proposed changes to legislation post the Civil Registration and Vital Statistics ("CRVS") assessment.²⁹¹

Requirements for Birth Registration (indicate which apply):

Identification of Child's Father (X) His Nationality (X)

Identification of Child's Mother () Her Nationality (X)

²⁸⁶ All conversions are approximate and were made at the time of writing the report using a commercial rate of exchange, available at www.xe.com.

²⁸⁷ UNICEF, "Swaziland: Scaling Up Birth Registration Campaigns", available at http://www.unicef.org/innovations/index_49229.html.

²⁸⁸ IRIN News, "Swaziland: Giving parentless children an identity", available at <http://www.irinnews.org/report/61621/swaziland-giving-parentless-children-an-identity>.

²⁸⁹ Further information contained in UNICEF report "Every Child's Birth Right: Inequities and trends in birth registration" (2013), available at http://www.unicef.org/lac/Birth_Registration_report_low_res.pdf.

²⁹⁰ Further information contained in the UNICEF report "Social Protection in Eastern and Southern Africa : A Framework and Strategy for UNICEF" (2008), available at [http://www.unicef.org/socialpolicy/files/Social_Protection_Strategy\(1\).pdf](http://www.unicef.org/socialpolicy/files/Social_Protection_Strategy(1).pdf).

²⁹¹ Correspondence from UNICEF staff member dated 25 November 2014.

Marriage Certificate (X)²⁹²

If both parents are Swazi citizens, then policy states that only the father of the child fills in the notification form.

Section 15(1) of the Registration Act states that the father or other prescribed person must within 60 days of the birth give the prescribed notice to a registration officer, local chief, induna or registration information officer. Section 15(2) of the Registration Act states that the chief, induna or registration information officer must, within ten days of receipt of the prescribed notice, submit written information about the birth on a prescribed form to the registration officer of the district or sub-district in which the child was born in order for a birth certificate to be issued. Once the registration officer has received the required information and registered the birth in the register, they must issue a birth certificate in the prescribed form and furnish to the Registrar a copy of the birth certificate along with the original birth information notice.

Are Stateless / Refugee Births Registered?

Yes (X) No ()

Section 6(3)(a) of the Registration Act states that the Registrar should keep a register recording the birth of every child occurring in the area falling under their jurisdiction.

Section 47 of the Constitution states that any deserted children aged seven or under found in Swaziland are deemed, in the absence of evidence to the contrary, to have been born in Swaziland and to be Swazi citizens by birth. In accordance with section 48 of the Constitution, any children born on board a ship or aircraft registered in Swaziland, or an unregistered ship or aircraft of the Swazi Government, will be deemed to have been born in Swaziland.

Are children of single parents registered?

Yes (X) No ()

Section 10 of the Registration Act contains specific provisions relating to the registration of births of children born out of wedlock. Section 10(1) of the Registration Act states there is no requirement for the father of a child born out of wedlock to provide information about the birth of a child. Section 10(2) provides that a registration officer should not enter the name of the father of a child born out of wedlock in a birth information form or any register, unless it has been jointly requested by the mother and the father, and the father has acknowledged in writing and in the presence of the registration officer that he is the father of the child.

Although Swazi citizenship usually derives from the father (see sections 43(1)-(2) of the Constitution which denote that a person will acquire Swazi citizenship if, at the time of their birth, their father was Swazi), section 43(3) of the Constitution provides that where a child is born out of wedlock and is not adopted by its father or claimed by its father in accordance with Swazi law and custom, the child will still acquire Swazi citizenship, if the mother is Swazi.

²⁹² Please see the list of documentation referred to on the website for the Ministry of Home Affairs, available at http://www.gov.sz/index.php?option=com_content&catid=81%3Ahome-affairs&id=1368%3Acivil-registration&Itemid=304.

Are all children born in the territory registered?

Yes (X) No ()

Section 6(3)(a) of the Registration Act states that the Register of Births is to record the birth of every child. Section 20 of the Registration Act further provides that hospitals, clinics, maternity homes, nursing homes, orphanages and similar institutions must furnish a monthly return of live and still births occurring in their institution, so that the local district registrar or assistant district registrar can cross check that all births have been registered by themselves.

If no, please provide list of those not registered

Not applicable.

Other Requirements (if none, put n/a)

Applicants for birth registration must complete Form BMD-1 (Notice of Birth). Applicants must also complete either Form BMD-1A (Register of Live Births) or Form BMD-1C (Register of Still Births), depending on whether the birth was a live birth or a still birth.

If the child was born outside Swaziland, the applicant must complete Form BMD-1B (Register of External Births) instead.

To submit an application for late registration, Form BMD-16 must also be submitted together with Form BMD-1.²⁹³

Registration System Set-up

Electronic Submission () Paper Submission (X) Both ()

Section 15(1) of the Registration Act simply states that the informant must give the prescribed notice to a registration officer, local chief, induna or a registration information officer. There are no provisions relating to electronic submission. Section 15(2) of the Registration Act provides that, upon the receipt of a notification of birth, the chief, induna or registration information officer are obliged to use a prescribed form to provide written information about the birth to the registration officer of the district or sub-district in order to allow a birth certificate to be issued (no further details of the prescribed form are disclosed in the Registration Act).

We note from the website of the Ministry of Home Affairs that the documentation required in order for a birth certificate to be produced must be the original and not a copy.²⁹⁴ Therefore we can infer that paper submission is the only method available.

²⁹³ B. Shongwe and A. Zwane, "The Current Status of Vital Statistics and Civil Registration Systems in Swaziland", 27 October 1994, available at http://unstats.un.org/unsd/demographic/meetings/wshops/1994_Ethiopia_CRVS/docs/Doc.19_Swaziland.pdf.

²⁹⁴ Swaziland Ministry of Home Affairs, "Civil Registration", available at http://www.gov.sz/index.php?option=com_content&catid=81%3Ahome-affairs&id=1368%3Acivil-registration&Itemid=304.

Location of registration facilities²⁹⁵

Capital city Yes (X) No ()

Other cities Yes (X) No ()

Villages Yes (X) No ()

Other _____

Note on registration facilities:

For those individuals living in rural parts of Swaziland, the location, terrain and distance to the nearest registration centre can influence the decision whether to register the birth of a child. The greater the distance that needs to be covered in order to register, together with the cost of doing so, significantly influences the decision to register the birth of a child. In 2010, it was estimated that only 47% of those individuals living in rural parts of Swaziland held a birth certificate.²⁹⁶

According to the website for the Ministry for Home Affairs, there are registry offices located in the following regions:²⁹⁷

- Hhohho
 - Piggs Peak
 - Mbabane
- Lubombo
 - Siphofaneni
 - Siteki
 - Matata
- Manzini
 - Manzini
 - Mankayane
- Shiselweni
 - Sihlutse
 - Nhlangano
 - Hlatikulu²⁹⁸

²⁹⁵ From the legislation which we reviewed (see endnote), there were no express provisions requiring there to be registration facilities in rural communities. However, according to UNICEF's report on "Good Practices in Integrating Birth Registration into Health Systems, 2000-2009" (January 2010), available at [http://www.unicef.org/protection/Birth_Registration_Working_Paper\(2\).pdf](http://www.unicef.org/protection/Birth_Registration_Working_Paper(2).pdf), UNICEF has introduced registration programmes into the country's eight largest hospitals.

²⁹⁶ UNICEF, "Every Child's Birth Right: Inequities and trends in birth registration" (2013), available at http://www.unicef.org/lac/Birth_Registration_report_low_res.pdf.

²⁹⁷ Swaziland Ministry of Home Affairs, "Civil Registration Services", available at http://www.gov.sz/index.php?option=com_content&id=311&Itemid=441.

Is birth registration required for:

Access to education Yes (X) No () Unclear () Law *No specific law. See explanation below.*

Section 29(6) of the Constitution states that all Swazi children are to be given access to free primary education.²⁹⁹ The Education Act 1981³⁰⁰ does not contain any provision specifically requiring a birth certificate for access to education.

Please note, however, that we were unable to obtain copies of the Education Rules 1977, the University of Swaziland Act 1983 and the Free Primary Education Act 2010, which may be relevant.

No specific provisions requiring a birth certificate were found in the following policies which we reviewed:

1. EFA Plan No.2;³⁰¹
2. Swaziland Ministry of Education Report on the Proposed Rehabilitation and Expansion of Open and Distant Learning at EMLalatini Development Centre;³⁰²
3. Ministry of Education National Policy Statement on Education (1999);³⁰³
4. Ministry of Education Special Education Policy Statement (October 1999);³⁰⁴
5. Ministry of Education Teaching Service Commission;³⁰⁵ and
6. The Swaziland Education Sector Training Policy (April 2011).³⁰⁶

²⁹⁸ Swaziland Ministry of Home Affairs, "Civil Registration Services", accessed 9 April 2015, available at http://www.gov.sz/index.php?option=com_content&id=311&Itemid=441 and correspondence from a UNICEF staff member dated 25 November 2014.

²⁹⁹ A copy of the Constitution was provided by UNICEF.

³⁰⁰ Education Act 1981.

³⁰¹ Government of Swaziland, "EFA Plan No. 2", available at <http://www.gov.sz/images/stories/edupolicies/5%20Main%20Sectoral%20Development%20Activities.pdf>.

³⁰² Swaziland Ministry of Education and Training, "Report on the Proposed Rehabilitation and Expansion of Open and Distance Learning at EMLalatini Development Centre", available at <http://www.gov.sz/images/stories/edupolicies/EMLalatini%20Comprehensive%20Plan.pdf>.

³⁰³ Swaziland Ministry of Education, "National Policy Statement on Education 1999", available at <http://www.gov.sz/images/stories/edupolicies/National%20Policy%20Statement%20On%20Education.pdf>.

³⁰⁴ Swaziland Ministry of Education, "Special Education Policy Statement October 1999", available at <http://www.gov.sz/images/stories/edupolicies/Special%20Education%20Policy%20Statement.pdf>.

³⁰⁵ Swaziland Ministry of Education, "Teaching Service Commission (TSC)", available at <http://www.gov.sz/images/stories/edupolicies/The%20TSC%20Act.pdf>.

³⁰⁶ Swaziland Ministry of Education and Training, "The Swaziland Education and Training Sector Policy", available at <http://www.gov.sz/images/stories/edupolicies/education%20sector%20policy.pdf>.

However, the Swaziland Education Sector Training Policy states that there is a minimum and a maximum age for admission, which is to be set by each school. Thus, in practice, it seems that providing a birth certificate may be a requirement. Indeed, an example enrolment form for Usutu Forests Primary School in Mhlambanyatsi provides that a birth certificate is required to be submitted as part of the child's application to the school.³⁰⁷

Similarly, according to the policy of the Ministry of Labour and Social Security, any application for a government bursary or scholarship loan must include, amongst other things, a certified true copy of the student's birth certificate.³⁰⁸

In practice, no child can sit for an external examination without a birth certificate. This includes the examinations to enter Grade 7, Form 3 (secondary) and Form 5 (GCE - High School).³⁰⁹

Obtaining a primary school diploma

Yes () No () Unclear (X) Law _____

The Education Act 1981 does not contain provisions specifically requiring a birth certificate to obtain a primary school diploma. Please note that we were unable to obtain copies of the Education Rules 1977 and the Examination Regulations 1984, which may be relevant.

In terms of policy, no specific provisions requiring a birth certificate to obtain a primary school diploma were found in the Education Sector Policy, National Policy Statement on Education 1999,³¹⁰ or Special Education Policy Statement 1999. However, if a birth certificate is necessary for primary school enrolment, it would seem difficult or impossible to obtain a diploma without one.

Obtaining a secondary school diploma

Yes () No () Unclear (X) Law _____

The Education Act 1981 does not contain provisions specifically requiring a birth certificate to obtain a secondary school diploma. However, please note that we were unable to obtain copies of the Education Rules 1977 and the Examination Regulations 1984, which may be relevant.

³⁰⁷ Usutu Forests Primary School, "Applications and Fees at Usutu Forests Primary School", available at <http://www.usutuprimary.ac.sz/applicationandfees/index.php>.

³⁰⁸ Swaziland Ministry of Labour & Social Security, "Scholarship service", available at http://www.gov.sz/index.php?option=com_content&id=410&Itemid=373.

³⁰⁹ Correspondence from a UNICEF staff member dated 25 November 2014.

³¹⁰ Swaziland Ministry of Education and Training, "The Swaziland Education and Training Sector Policy", available at <http://www.gov.sz/images/stories/edupolicies/education%20sector%20policy.pdf>. See also the Swaziland Ministry of Education and Training, "National Policy Statement on Education 1999", available at <http://www.gov.sz/images/stories/edupolicies/National%20Policy%20Statement%20On%20Education.pdf> and the Swaziland Ministry of Education, "Special Education Policy Statement October 1999", available at <http://www.gov.sz/images/stories/edupolicies/Special%20Education%20Policy%20Statement.pdf>.

No specific provisions requiring a birth certificate to obtain a secondary school diploma were found in the Education Sector Policy, National Policy Statement on Education 1999, or the Special Education Policy Statement 1999.

Access to health (emergency services only)

Yes () No () Unclear (X) Law _____

The Public Health Bill 2013³¹¹ does not contain provisions specifically requiring a birth certificate to access emergency health services.

We have reviewed the terms of the Public Health Act 1969³¹² and note that it does not contain specific provisions relating to the requirement of a birth certificate specifically in order to obtain access to emergency healthcare. Please note that the Public Health Regulations 1969 have not been reviewed and may be relevant.

No specific provisions requiring a birth certificate were found in the National Health Policy.³¹³ However, despite the absence of specific language regarding the necessity of providing a birth certificate to access emergency healthcare, it may be that in practice, individual hospitals require birth certificates as a form of identity.

Access to health (primary health services only)

Yes () No () Unclear (X) Law _____

Please see the comments above in connection with "Access to health (emergency services only)" which apply equally to this section.

Access to health (all health services)

Yes () No () Unclear (X) Law _____

Please see the comments above in connection with "Access to health (emergency services only)" which apply equally to this section.

³¹¹ Please note that at the time of writing this Bill has not yet been given Royal Assent, but serves as an indication of the legislative provisions that are being made. It does not contain any provisions explicitly requiring a birth certificate to access healthcare services, but sections 20(2), 171(4) and 172(3) appear to confer a universal right of access to primary healthcare. There is reference on the Government of Swaziland website to the Public Health Bill 2012 having been given Cabinet approval. We have not seen a copy of this Bill and we are unclear as to whether the 2012 and 2013 Public Health Bills are actually one and the same, see the Government of Swaziland, "Cabinet Approves Broadcasting Bill", available at http://www.gov.sz/index.php?option=com_content&view=article&id=1354:cabinet-approves-broadcasting-bill&catid=1:latest-news.

³¹² Public Health Act 1969.

³¹³ Swaziland Ministry of Health and Social Welfare, "National Policy", available at <http://www.gov.sz/images/stories/Health/Ministry%20of%20Health%20-%20National%20Policy.pdf>.

Access to social security programmes / cash benefits

Yes () No () Unclear (X) Programme name _____ Law _____

No relevant specific legislative provisions were found. Moreover, no specific provisions were found in government policies that might require a birth certificate in order to access social security programmes, social programmes, or cash benefits. However, in practice, it does seem to be the case that a birth certificate is required. For instance, membership of the national injury and retirement fund, the Swaziland National Provident Fund ("**SNPF**"), requires a birth certificate as evidence of age.³¹⁴

We also found that enrolment at Swaziland Skills Centres ("**SSC**"), which are national centres providing vocational training to unemployed young people aged 18-25, requires a birth certificate to be exhibited as part of the SSC application form.³¹⁵

Nationality

Yes (X) No () Unclear () Law *No specific law. See explanation below.*

Section 7(1) of the Swaziland Citizenship Act 1992 ("**Citizenship Act**") states that any individual born in Swaziland after the commencement of the Citizenship Act will be a citizen by birth provided that at the time of their birth, their father was a citizen of Swaziland.

We have reviewed the terms of the Citizenship Bill 2011 ("**Citizenship Bill**") and note that section 6(1) of the Citizenship Bill mirrors the provisions of section 7(1) of the Citizenship Act.³¹⁶ We have not been able to verify whether the Citizenship Bill has yet been enacted.

We have also reviewed The Citizenship Regulations 1975,³¹⁷ which do not contain a specific requirement for a birth certificate for citizenship.

However, whilst there are no explicit legislative provisions requiring birth registration, as a matter of policy, an application for Swazi citizenship must be accompanied by a birth certificate.³¹⁸ In practice where a birth certificate does not identify the father of the child, or if no birth certificate can be produced, then it can be difficult for the child to obtain citizenship.

Identification card

Yes () No () Unclear (X) Law _____

³¹⁴ Swaziland National Provident Fund, "How to Claim", available at <http://www.snpf.co.sz/index.php/2014-04-15-09-49-59>.

³¹⁵ Swaziland Skills Centres, "Swaziland Skills Centres", accessed 9 April 2015, available at <http://www.ssc.org.sz/index.html>.

³¹⁶ A copy of the Bill has been provided by UNICEF.

³¹⁷ Citizenship Regulations 1975.

³¹⁸ Swaziland Ministry of Home Affairs, "Citizen Application Requirements", available at http://www.gov.sz/index.php?option=com_content&view=article&id=312&Itemid=436.

Section 7 of the Passports Act 1971 ("**Passport Act**")³¹⁹ empowers the Deputy Prime Minister to issue certificates of identity. However, it is not clear whether a birth certificate is required in order to apply for a certificate of identity: the website of the Ministry of Home Affairs, which is responsible for issuing identification cards, does not contain any guidance on how an individual may apply for one.

Please note that we were unable to obtain copies of the Identification Order 1998 and the Identity and Travel Documents Act 1959, which may also be relevant.

Passport

Yes (X) No () Unclear () Law *No specific law. See explanation below.*

The provisions of the Passport Act do not make specific reference to the requirement for a birth certificate. However, as a matter of policy, the Ministry of Home Affairs states that a birth certificate is required in order to apply for a passport.³²⁰

Other (Please specify e.g. enrolment for social protection programme/ food bank/banks etc.)

Although no legislative provisions relating to this point were found, a birth certificate appears to be a requirement of any application to open a bank account or to invest in government bonds. For example, the application to open a savings account with First National Bank requires the applicant to exhibit valid Swazi I.D. or a Swazi passport³²¹ (please see our comments above in relation to requirements for passports).

References

Legislation Reviewed:

- Administration of Estates Act 1902;
- Adoption of Children Act 1952;
- Births, Marriages and Deaths Registration Act 1983;
- The Change of Name Act 1962;
- The Children's Protection and Welfare Act 2012;
- Citizenship Act 1992;
- Citizenship Bill 2011 [NB. So far as we are aware, this has not yet been brought into force at the time of writing];

³¹⁹ Passports Act 1971.

³²⁰ Swaziland Ministry of Home Affairs, "Immigration", available at http://www.gov.sz/index.php?option=com_content&view=article&catid=81%253Ahome-affairs&id=307%253Aimmigration&Itemid=246. See also Swaziland Ministry of Home Affairs, "Issuing travel documents and passports", available at http://www.gov.sz/index.php?option=com_content&view=article&id=313&Itemid=372.

³²¹ First National Bank Swaziland, "Supersave Account", available at <https://www.fnbswaziland.co.sz/personal/savings-accounts/supersave-account.html>.

- Citizenship and Immigration Act 1982;
- Citizenship Regulations 1975;
- Constitution of the Kingdom of Swaziland Act 2005;
- Deeds Registry Act 1968;
- Deeds Registry Regulations 1973;
- Education Act 1981;
- Employment Act 1980;
- Immigration Act 1982;
- Immigration Regulations 1987;
- Marriage Act 1964;
- Passport Act 1971;
- Prescription of Passport Fees and Forms Regulations 1971;
- Public Health Act 1969;
- Public Health Bill 2013 [NB. So far as we are aware, this had not yet been brought into force at the time of writing];
- Retirement Funds Act 2005;
- Retirement Funds Directives 2008;
- Retirement Funds Regulations 2008;
- Swaziland Citizenship Act 1992;
- The Wills Act 1955.

Further Sources:

- Dr I.T. Zwane, "Assessing quality of care and responsiveness of health services for women in crises settings: Swaziland case study", (2005), available at http://www.who.int/hac/techguidance/pht/womenshealth/Swaziland_report_women_in_crisis_june2005.pdf
- Examinations Council of Swaziland, "ECOS Handbook 2013/2014: Regulations for conducting ECOS examinations - SGCSE", available at <http://www.examsCouncil.org.sz/Shared%20Documents/Download/Handbook/ECOS%20HANDBOOK%20FOR%20CENTRES%202013%20&%202014.pdf>
- IRIN News, "Swaziland: Giving parentless children an identity", available at <http://www.irinnews.org/report/61621/swaziland-giving-parentless-children-an-identity>
- Save the Children, "Birth Certificates and National Identity Documents for Persons with Disabilities", available at http://www.savethechildren.org.sz/index.php?option=com_content&task=view&id=43&Itemid=61
- Swaziland Central Statistical Office, "Demographic and Health Survey 2006-2007", (2008), available at <http://www.gov.sz/images/stories/Health/SDHS%20Preliminary%20Final%20report.pdf>

- Swaziland Central Statistical Office and UNICEF, "Multiple Indicator Cluster Survey 2010 - Swaziland: Monitoring the situation of children, women and men", (2011), available at http://www.childinfo.org/files/Swaziland_Summary_Report.pdf
- Swaziland Ministry of Education and Training, "The Swaziland Education and Training Sector Policy", (2011), available at <http://planipolis.iiep.unesco.org/upload/Swaziland/SwazilandEducationSectorPolicy2011.pdf>
- Swaziland Ministry of Health, "Essential Health Care Package for Swaziland", (2010), available at http://www.gov.sz/index.php?option=com_content&view=article&id=751&Itemid=599
- Swaziland Ministry of Home Affairs website, available at http://www.gov.sz/index.php?option=com_content&view=article&id=220&Itemid=95
- Swaziland Skill Centres website, available at <http://www.ssc.org.sz/>
- UNICEF, "Swaziland: Scaling up Birth Registration Campaigns", (2009), available at http://www.unicef.org/innovations/index_49229.html
- UNICEF, "Strategic analysis on civil registration and children in the context of HIV and AIDS" (2008), available at http://www.unicef.org/Birth_registration_in_the_context_of_HIV_and_AIDS.pdf

Inaccessible Legislation (that may be relevant):

- Acquisition of Property Act, No. 10 of 1961;
- Ancillary Rights Act, No. 59 of 1950;
- Approved Scheme for Widows' and Orphans' Pensions, No. 35 of 1966;
- Education Rules, 1977;
- Elections Order, No. 2 of 1992;
- Electoral Act, No. 4 of 1971;
- Employment Regulations, 1981, No. 5 of 1980;
- Examination Regulations 1984, No. 9 of 1981;
- Free Primary Education Act of 2010;
- Identification Order, No. 4 of 1998;
- Identity and Travel Documents Act, No. 54 of 1959;
- Maintenance Act, No. 35 of 1970;
- People Trafficking and People Smuggling Prohibition Act of 2009;
- Public Health Regulations, No. 5 of 1969;
- University of Swaziland Act, No. 2 of 1983;
- Widows' and Orphans' Pensions Act, No. 35 of 1966;
- Widows' and Orphans' Pensions Regulations, No. 35 of 1966.

UGANDA

QUESTIONNAIRE ON BIRTH REGISTRATION - UGANDA

Key Points

- It is compulsory to register all live births in Uganda within three months.
- There is a small fee for birth registration, which rises significantly for late registration.
- Birth registration is required in order to secure nationality, a passport and a national identity card. However, birth registration is not required to access education, health or social services.

Name of official authority in charge of registering a child's birth:

Uganda Registration Services Bureau.

Where is the civil registry located in the government?

- () Ministry of Justice
- () Ministry of Interior
- () Electoral Agency
- (X) Independent Entity³²²
- () Other

Law: Uganda Registration Services Bureau Act (Chapter 210, Laws of Uganda).³²³ This Act came into force on 16 August 2004.

Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?

Jus sanguinis generally (Article 10, Constitution of the Republic of Uganda 1995).³²⁴

However, if a child younger than five years of age is found in Uganda, whose parents are not known, the child is presumed to be a citizen of Uganda by birth (Article 11(1), Constitution of the Republic of Uganda 1995).

³²² Uganda Registration Services Bureau (a), "About Us, Overview", available at <http://www.ursb.go.ug/about-us/overview/>.

³²³ Uganda Registration Services Bureau Act (Chapter 210, Laws of Uganda), available at <http://www.ulii.org/ug/legislation/consolidated-act/210>.

³²⁴ Constitution of the Republic of Uganda, available at <http://www.statehouse.go.ug/government/constitution>.

Is there any legal obligation to register children?

Yes (X) No ()

If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.

Section 7 of the Births and Deaths Registration Act (Chapter 309, Laws of Uganda)³²⁵ requires the parent (father or mother) of a live child to register the birth within three months of the date of birth. The birth of a child who is deceased at birth will not be registered.

If the parents are dead or unable to register the birth:

(a) the occupier of the house in which the child was, to the knowledge of the occupier, born;

(b) any person who was present at the birth; or

(c) any person having charge of the child,

is required to register the birth.

Does the child need to be registered within a certain amount of time from birth?

Yes (X) No ()

If yes, by when?

Within three months of the date of birth of a live child (section 7 of the Births and Deaths Registration Act (Chapter 309, Laws of Uganda)).

Is a paper certificate issued as a result of the registration?

Yes (X) No ()

Birth notification card

A birth notification card is issued by a hospital to confirm the delivery of a child and includes the name of the mother (but not the father), the sex and weight of the baby and the date and time of birth.³²⁶

The card may or may not include the child's name, since a name may not have been chosen at the time of birth. It is customary in some cultures in Uganda to request that clan elders name the child after birth.

Short Birth Certificate

³²⁵ Births and Deaths Registration Act (Chapter 309, Laws of Uganda), available at http://www.africanchildforum.org/cfr/Legislation%20Per%20Country/Uganda/uganda_birthreg_1973_en.pdf.

³²⁶ Immigration and Refugee Board of Canada, "Uganda: Response to Information Request", 4 July 2011, available at <http://www.justice.gov/sites/default/files/eoir/legacy/2013/11/07/UGA103781.E.pdf>.

The initial registration of a birth is carried out at the local level and in health facilities such as hospitals. Births should then be reported to local government, which may issue a "short" birth certificate, and then reported on to the Registrar General. In practice, "short" birth certificates are issued by the Ministry of Health at district level.³²⁷ A "short" birth certificate contains the name and sex of the child, the name and nationality of the mother, the date and place of birth and a registration number.³²⁸ The "short" birth certificate will also include the name and nationality of the father if (i) the child is a child of a lawful marriage or (ii) the child is not a child of a lawful marriage and the father consents to his name being registered as the father of the child.³²⁹

Long-form Birth Certificate

A "long" birth certificate contains the same information as the "short" birth certificate and, in addition:

- the residence of the father if (i) the child is a child of a lawful marriage or (ii) the child is not a child of a lawful marriage and the father consents to his name being registered as the father of the child;³³⁰
- the residence of the mother;
- the full name, occupation and residence of the person who has provided the information leading to registration and in what capacity he/she provides the information; and
- provision for adding another name at a later stage (such as after baptism).

A "long" birth certificate may be obtained from the Office of the Registrar General in Kampala.

Different by region/area

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

Is there a separate fee for the issuance of a paper certificate?

Yes () No () Unclear (X)

In practice, it is not clear whether there is a single fee for the registration of a birth or a separate fee for the short / long form birth certificates. For example, it is possible to notify and register a birth using the Mobile VRS system for which there is no fee.

Different by region/area

Yes () No (X)

³²⁷ Immigration and Refugee Board of Canada (2011), op. cit.

³²⁸ Immigration and Refugee Board of Canada (2011), op. cit.

³²⁹ Section 9, Births and Deaths Registration Act, available at http://www.africanchildforum.org/cfr/Legislation%20Per%20Country/Uganda/uganda_birthreg_1973_en.pdf.

³³⁰ Section 9, Births and Deaths Registration Act.

If it's different by region/or area, please provide us more detail.

Not applicable.

Birth Registration Fee

Yes () No () Conditional (X)

If yes, amount in USD:

"Short" birth certificate - USD 0.38.

"Long" birth certificate - Ug shs 5000 (USD 1.50)³³¹ for national applications, USD 40 for foreign applications.³³²

If it's conditional, please provide reasons/cases for exemption

Refugees: Free.³³³ Please note that at the time of writing, the fee for refugees had been waived. This is no longer believed to be the case and the relevant webpage of the Uganda Registration Services Bureau has been amended to remove this information.³³⁴

Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration')

Yes (X) No ()

If yes, amount in USD:

Approximately USD 5.³³⁵

Requirements for Birth Registration (tick what applies):

Identification of Child's Father (X) His Nationality (X)³³⁶

³³¹ All conversions are approximate and were made at the time of writing the report using a commercial exchange rate, available at www.xe.com.

³³² Uganda Registration Services Bureau (b), "Obtaining a Birth Certificate", available at <http://www.ursb.go.ug/services/civil-registration/obtaining-a-birth-certificate>; and Form B ('Declaration of Birth Form') available at <http://ursb.go.ug/services/civil-registration/forms-for-civil-registration/>.

³³³ UNHCR, "The Implementation of UNHCR's Policy on Refugee Protection and Solutions in Urban Areas - Global Survey 2012", available at <http://www.unhcr.org/516d658c9.pdf>.

³³⁴ Uganda Registration Services Bureau(1), op. cit.

³³⁵ Victims Participation and Reparations Section, "Report on the identity documents available in the Ugandan legal and administrative system and other supporting documentation for applications for participation in proceedings in Uganda", 12 October 2007, available at <http://www.icc-cpi.int/iccdocs/doc/doc454998.pdf>.

³³⁶ If the child is not a child of a lawful marriage, no person will be registered as the father of the child unless the father consents to his name being registered as the father of the child (section 9, Births and Deaths Registration Act).

Identification of Child's Mother (X) Her Nationality (X)

Marital Status ()

Are Stateless / Refugee Births Registered?

Yes (X) No ()

The birth of a live child in Uganda must be registered.³³⁷

Are children of single parents registered?

Yes (X) No ()

The birth of a live child in Uganda must be registered.³³⁸

Are all children born in the territory registered?

Yes () No (X)

If no, please provide list of those not registered

The birth of a child who is deceased at birth will not be registered.

Other Requirements

If the baby is not born in an authorised hospital, the parent may notify and register the birth by using the Mobile VRS described below³³⁹ or by submitting a written confirmation of the fact of the birth from the local leaders (including district leaders) with the application for registration.³⁴⁰

Registration System Set-up (this may not be in the legal framework)

Electronic Submission () Paper Submission () Both (X)

Section 8 of the Births and Deaths Registration Act (Chapter 309, Laws of Uganda), states that the registration of a child's birth shall be certified by the person registering it and the registrar will then sign and date the register after the entry of the particulars. There are no provisions relating to electronic submission.

However, the development of the Mobile Vital Records System ("**Mobile VRS**") has enabled the use of internet connected computers in hospitals and local governments to register births as well as the use of mobile phones in communities to send birth notifications in real time from any part of Uganda into the Central Government Civil Registration database.

³³⁷ Section 7, Births and Deaths Registration Act.

³³⁸ Section 7, Births and Deaths Registration Act.

³³⁹ Mobile Vital Records System, "About Mobile Vital Records System", available at <http://www.mobilevrs.co.ug/home.php>.

³⁴⁰ Immigration and Refugee Board of Canada (2011), op. cit.

Mobile VRS generates real time reports of births registered by sex, by geographical location and within a given time frame selected by the user.

Since September 2011, when the first baby was registered using Mobile VRS in the Mulago national referral hospital, a total of 1,486,344 persons have been registered under the system in 135 hospitals and in 33 out of 112 local governments, of which 602,925 are children under five years of age (49% girls). This has contributed to an estimated national increase of birth registration of under-fives from 30%³⁴¹ to approximately 47.18% as of October 2013. About 72% of birth certificates have been printed from the Mobile VRS database and are progressively being distributed to the registered children.³⁴²

Location of registration facilities (this may not be in the legal framework)

Capital city Yes (X) No ()

Other cities Yes (X) No ()

Villages Yes (X) No ()

Other _____

In 2011, it was estimated that the births of only three out of every ten children under the age of five were registered in Uganda and less than 12.2% of all children under the age of five in Uganda held a birth certificate.³⁴³

A birth may be registered in the local community by the Mobile VRS,³⁴⁴ or with a hospital administrator, sub-county chief or town hall clerk depending on the place where the birth occurred. The Mobile VRS allows a birth to be notified and registered using mobile telephony. Even in a remote community, this system allows a birth to be reported to a local government volunteer notifier, who then enters the information directly into a central government database using a mobile phone.³⁴⁵

Birth Registration is required for:

Access to education

Yes () No (X) Law _____

We found no law that stipulates that evidence of birth registration is required for access to education.

³⁴¹ Uganda Bureau of Statistics, "Uganda Demographic and Health Survey 2011", August 2012, available at <http://www.ubos.org/onlinefiles/uploads/ubos/UDHS/UDHS2011.pdf>.

³⁴² UNICEF, "A Passport to Protection: A Guide to Birth Registration Programming", December 2013, available at http://www.unicef.org/protection/files/UNICEF_Birth_Registration_Handbook.pdf.

³⁴³ Uganda Bureau of Statistics (2012), op. cit.

³⁴⁴ Mobile Vital Records System, op. cit.

³⁴⁵ UNICEF, "Case Study on Narrowing the Gaps for Equity - Uganda", January 2012, available at http://www.unicef.org/equity/files/ICON_EquityCaseStudy_Uganda.pdf.

Obtaining a primary school diploma

Yes () No (X) Law _____

We found no law that stipulates that evidence of birth registration is required for issuance of a primary school diploma.

Obtaining a secondary school diploma

Yes () No (X) Law _____

We found no law that stipulates that evidence of birth registration is required for issuance of a secondary school diploma.

Access to health (emergency services only)

Yes () No (X) Law _____

We found no law that stipulates that evidence of birth registration is required for access to emergency healthcare.

Access to health (primary health services only)

Yes () No (X) Law _____

We found no law that stipulates that evidence of birth registration is required for access to primary healthcare.

Access to health (all services)

Yes () No (X) Law _____

We found no law that stipulates that evidence of birth registration is required for access to health services.

Access to social security programmes/cash benefits

Yes () No (X) Programme name _____ Law _____

We found no law that stipulates that evidence of birth registration is required for access to social security programmes.

Nationality

Yes (X) No () Law *Sections 27 to 33, Uganda Citizenship and Immigration Control Act 1999 (Chapter 66, Laws of Uganda).*³⁴⁶

Every citizen of Uganda has a duty to register as a citizen of Uganda. Upon registration as a citizen, the applicant will be issued with a national identification number. An applicant must provide proof of his or her citizenship.³⁴⁷ In the case of citizenship by birth, such proof would include a birth certificate.

³⁴⁶ Uganda Citizenship and Immigration Control Act (Chapter 66, Laws of Uganda), available at <http://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=544e4e554>.

³⁴⁷ Section 33, Uganda Citizenship and Immigration Control Act.

The authority responsible for registering births has a duty to provide information to the authority responsible for registering citizens.³⁴⁸

Identification card

Yes (X) No () Law Sections 27 to 33, *Uganda Citizenship and Immigration Control Act*.

Every citizen of Uganda of or above the age of 18 years of age has a duty to apply for a national identification card.³⁴⁹ The national identification number allocated to a person when he or she was registered as a citizen shall appear on that person's national identification card.³⁵⁰

Passport

Yes (X) No () Law Section 45, *The Uganda Citizenship and Immigration Control Act*.

Any person applying for a passport must produce evidence to the effect that he or she is a citizen of Uganda and may be required to provide his or her national identification number. An application for a passport must be accompanied by evidence of the applicant's identification e.g. a voter's card, a birth certificate, a school certificate, a national identification card, a baptism card or an employer's card.³⁵¹ An applicant must also complete "Form B", entitled "Citizenship Verification", which requires that the birth certificate number of the applicant and the birth certificates of the parents of the applicant be provided.³⁵²

Other

Not applicable.

References

Legislation Reviewed:

- Constitution of the Republic of Uganda 1995;
- The Births and Deaths Registration Act, Chapter 309, Laws of Uganda;
- The Uganda Citizenship and Immigration Control Act, Chapter 66, Laws of Uganda;
- The Uganda Registration Services Bureau Act, Chapter 210, Laws of Uganda.

³⁴⁸ Section 27(5), *Uganda Citizenship and Immigration Control Act*.

³⁴⁹ Section 28(1), *Uganda Citizenship and Immigration Control Act*.

³⁵⁰ Section 28(5), *Uganda Citizenship and Immigration Control Act*.

³⁵¹ Directorate of Citizenship and Immigration Controls, Ministry of Internal Affairs, Republic of Uganda, "Passports & Other Travel Documents", available at <http://www.immigration.go.ug/content/passports-other-travel-documents>.

³⁵² Uganda High Commission in the UK, "Form B", available at <http://www.ugandahighcommission.co.uk/passport/pp.%20Form%20B.pdf>.

Further Sources:

- Directorate of Citizenship and Immigration Controls, Ministry of Internal Affairs, Republic of Uganda, "Passports & Other Travel Documents", available at <http://www.immigration.go.ug/content/passports-other-travel-documents>
- Immigration and Refugee Board of Canada, "Uganda: Response to Information Request", 4 July 2011, available at <http://www.justice.gov/sites/default/files/eoir/legacy/2013/11/07/UGA103781.E.pdf>
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- Uganda Registration Services Bureau (1), "About Us, Overview", available at <http://www.ursb.go.ug/about-us/overview/>
- Uganda Registration Services Bureau (2), "Obtaining a Birth Certificate", available at http://www.ursb.go.ug/index.php?option=com_content&view=article&id=75:procedure-for-obtaining-a-birth-certificate&catid=40:birth-certificate&Itemid=75
- UNHCR, "The Implementation of UNHCR's Policy on Refugee Protection and Solutions in Urban Areas - Global Survey 2012", available at <http://www.unhcr.org/516d658c9.pdf>
- UNICEF, "A Passport to Protection: A Guide to Birth Registration Programming", December 2013, available at http://www.unicef.org/protection/files/UNICEF_Birth_Registration_Handbook.pdf
- UNICEF, "Case Study on Narrowing the Gaps for Equity - Uganda", January 2012, available at http://www.unicef.org/equity/files/ICON_EquityCaseStudy_Uganda.pdf
- Victims Participation and Reparations Section, "Report on the identity documents available in the Ugandan legal and administrative system and other supporting documentation for applications for participation in proceedings in Uganda", 12 October 2007, available at <http://www.icc-cpi.int/iccdocs/doc/doc454998.pdf>

ZAMBIA

QUESTIONNAIRE ON BIRTH REGISTRATION - ZAMBIA

Key Points:

- There is a uniform law making it compulsory to register the births of all children in Zambia without distinction as to origin or descent, and there are stiff penalties for failing to give notice of the birth of a child. However, there are also a number of defences for failing to give notice where it was not reasonably practicable to submit the notification or the person under the duty could not be reasonably expected to have sufficient knowledge of their notification obligations.
- Registrations within one month of birth are free of charge, though fees may apply for late registrations after that period.
- Birth registration is required to obtain identity documents, and, although not specifically required for access to education, it may also be required indirectly for enrolment in schools and universities because of the need to submit identity documents.

Name of official authority in charge of registering a child's birth:

Registration of birth is compulsory. Birth Certificates are available to any applicant born on or after 1 January 1973 and can be obtained by the applicant applying to:³⁵³

Registrar General of Births, Deaths & Marriages

P.O. Box 32311

LUSAKA, ZAMBIA

Tel: (260-1) 228197

Currently, even while births can be registered in districts/ provinces, certificates can only be signed in Lusaka by the Registrar General.³⁵⁴ The current Births and Deaths Registration Act 1973 (Cap. 51) ("**Registration Act**") only allows for the Registrar General or his Deputy to sign the certificates.

Where is the civil registry located in the government?

() Ministry of Justice

(X) Ministry of Interior - Ministry of Home Affairs

³⁵³ High Commission of Zambia in South Africa, 'Birth Certificates', available at <http://www.zambiapretoria.net/birth-certificates/>.

³⁵⁴ Section 7 of the Births and Deaths Registration Act states that, "*a Registrar shall sign and forward forthwith by registered post to the Registrar General all notices of birth or death and all medical certificates of the cause of death received by him.*"

() Electoral Agency

() Independent Entity

() Other

Law: Government Gazette Notice No. 183 of 2012 transferred the function of registering births from the local authority to the Department of National Registration, Passport and Citizenship,³⁵⁵ which is within the Ministry of Home Affairs. We have not been able to find a copy of this Gazette Notice.³⁵⁶

Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?

By birth: A child born within the territory of Zambia shall be considered a citizen of Zambia. However, upon reaching the age of 21, the person must apply to the Citizenship Board for the confirmation of citizenship.³⁵⁷

By descent: If one of its parents is a Zambian citizen, a child shall be considered a citizen of Zambia regardless of the child's country of birth.³⁵⁸

Is there any legal obligation to register children?

Yes (X) No ()

If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.

The preamble to the Registration Act states that it is:

"an act to provide for a uniform law for the registration of all births and deaths in Zambia, without distinction of origin or descent; and to provide for matters incidental thereto."

Section 5 of the Registration Act states that:

"the birth of every child born and the death of every person dying in Zambia after the commencement of this Act shall be registered in accordance with the provisions of this Act."

Section 14(1) of the Registration Act sets out who is under a duty to notify the Registrar of the birth:

"In the case of every child, whether born alive or still-born, it shall be the duty of the father and the mother, and in default of the father or the mother the duty of (a) the occupier of the house in which

³⁵⁵ Website of the Department for National Registration, Passports and Citizenship, available at http://www.homeaffairs.gov.zm/?q=national_registration_passport_and_citizenship_department.

³⁵⁶ Moses, "Transfer of the Function of Registration of Birth and Deaths", 28 May 2015, <http://www.lcc.gov.zm/transfer-of-the-function-of-registration-of-births-and-deaths/>.

³⁵⁷ Multiplecitizenship.com, 'Zambia', available at http://www.multiplecitizenship.com/wscl/ws_ZAMBIA.html.

³⁵⁸ Article 5, Constitution of Zambia.

to his knowledge such child is born or the person in charge of any hospital or other institution in which such child is born; and (b) each person present at the birth; and (c) in the case of a child born alive, the person having charge of the child; to give notice in the prescribed form containing the prescribed particulars of the birth within one month thereof to the Registrar of the district in which such child is born."

Section 9 of the Registration Act provides for penalties for failing to give notice of the birth:

"Any person who, being under an obligation to give notice of the birth of any child or the death of any person, fails to do so within the period herein provided or refuses or neglects to state any of the particulars in the form prescribed by rules made under the provisions of this Act, or who willfully gives any false information or particulars for the purpose of registration, shall be guilty of an offence and shall be liable to a fine not exceeding two hundred penalty units or to imprisonment not exceeding one month with or without hard labour, or to both. Provided that no person shall be charged with an offence under this section - (i) for having failed to give notice of the birth of any child or the death of any person, if, having regard to all the circumstances of the case, it was not reasonably practicable for him to have given such notice or where such notice could not be given without causing unnecessary hardship or expense to such person; (ii) where, having regard to the education, knowledge and understanding of the person and to the social environment of the locality in which he resides, he could not reasonably be expected to have sufficient knowledge of his obligations under this Act."

Does the child need to be registered within a certain amount of time from birth?

Yes (X) No ()

If yes, by when?

The child must be registered within one month of him/her being born.³⁵⁹

If a birth occurred more than 12 months previously, the Registrar must make a report to the Registrar General in order to obtain his written authority to register the birth.

"(1) Where a Registrar is informed that a birth which occurred more than twelve months previously has not been registered, he shall make a report to the Registrar General stating to the best of his knowledge and belief the particulars required to be registered concerning the birth, the source of his information and the name and address of any informant available to give information for the registration.

(2) Where an informant attends to give information for the registration of a birth which occurred more than twelve months previously, the written authority of the Registrar General for registering

³⁵⁹ Section 14 (1)(c), Births and Deaths Registration Act. *"In the case of every child, whether born alive or still-born, it shall be the duty of the father and the mother, and in default of the father or the mother the duty of (a) the occupier of the house in which to his knowledge such child is born or the person in charge of any hospital or other institution in which such child is born; and (b) each person present at the birth; and (c) in the case of a child born alive, the person having charge of the child; to give notice in the prescribed form containing the prescribed particulars of the birth within one month thereof to the Registrar of the district in which such child is born."*

the birth shall be obtained and the fact that such authority has been given shall be entered in the register and endorsed on the notice of birth.

(3) Before the Registrar General gives written authority for the registration of a birth which has occurred more than twelve months previously, the informant shall furnish for the Registrar General's consideration an affidavit in duplicate in the form set out in Reg-Gen Form No. 12, supported by a baptismal certificate or a certificate from the hospital where the child was born naming the mother and the date of the birth, or, where the child was not born in a hospital, by two affidavits from two reliable witnesses to the birth.

*(4) Upon giving written authority for the late registration of a birth under sub-rule (3), the Registrar General shall forward the affidavit in duplicate to the Registrar of the district in which the birth occurred and on receipt of the affidavit the Registrar shall retain the top copy and return the duplicate copy together with the notice of birth completed by the parents of the child to the Registrar General."*³⁶⁰

Is a paper certificate issued as a result of the registration?

Yes (X) No ()

Different by region/area:

Yes () No (X)

If it's different by region/or area, please provide us more detail:

Not applicable.

Is there a separate fee for the issuance of a paper certificate?

Yes (X) No ()

The Second Schedule to the Births and Deaths Registration (General) Rules ("**Registration Rules**") states that the prescribed fee for issuing a birth certificate is "10 fee units".

Different by region/area:

Yes () No (X)

If it's different by region/or area, please provide us more detail:

Not applicable.

Birth Registration Fee:

Yes () No (X) Conditional ()

³⁶⁰ Rule 24, Births and Deaths Registration (General) Rules.

In accordance with the Registration Rules, there is no requirement to pay a birth registration fee as long as notice is given in the prescribed form containing the prescribed particulars of the birth within one month.³⁶¹

If yes, amount in USD:

Not applicable.

If it's conditional, please provide reasons/cases for exemption.

Not applicable.

Are there fees for registering a birth after a certain period of time ("late registration" or "delayed registration")

Yes (X) No ()

In addition to the potential penalties for failing to notify the birth of a child, there are fees for registering a birth after a certain period of time. Rule 23 of the Registration Rules states that a:

*"Subject to the provisions of section 9 of the Act, a Registrar may in appropriate cases register the birth of a child which has occurred more than one month previously upon payment by the informant of a late registration fee of one kwacha, provided that twelve months have not expired since the birth of the child occurred. Registration after one month but within twelve months."*³⁶²

The Second Schedule to the Registration Rules states that an affidavit in support of an application to register a birth more than 12 months after the birth occurred will incur a fee of "14 fee units".

If yes, amount in USD

Approximately USD 0.08 for registration within 12 months of the birth.³⁶³ Please note that this figure is the late registration fee and does not include the cost of an affidavit in support of the application.

Requirements for Birth Registration (tick what applies):

Identification of Child's Father (X) His Nationality (X)

Identification of Child's Mother (X) Her Nationality (X)

Marital Status (X)

Rule 3 of the Registration Rules states that the forms prescribed by the Registration Rules are included in the First Schedule to the Registration Rules. "Reg-Gen Form No.14" is included in the First

³⁶¹ Part XIII Section 43(1) of the Births and Deaths Registration (General) Rules states "*no fee is chargeable for the registration of a birth or a death if notice is given in the prescribed form containing the prescribed particulars of the birth within one month thereof.*"

³⁶² Section 23, Births and Deaths Registration Act.

³⁶³ Conversions are approximate and made at the time of writing the report using a commercial exchange rate, available at www.xe.com.

Scheduled to the Registration Rules as the prescribed form to notify a birth. The form requires informants to state the name and nationality of the father and the mother, as well as to include their date of marriage. There is no specific requirement that the marriage certificate must be supplied.

In addition, section 15 of the Registration Act states:

"No person shall be bound as father to give notice of the birth of an illegitimate child, and no person shall be registered as the father of such child except on the joint request of the mother and himself and upon his acknowledging himself in writing to be the father of the child in the presence of the Registrar".

Are Stateless / Refugee Births Registered?

Yes (X) No ()

The Births and Deaths Registration Act 1973 (Cap. 51) provides for compulsory registration of all children born in Zambia.

Zambia's nationality legislation lacks safeguards to protect statelessness. There is no safeguard against statelessness for children born in Zambia who would otherwise be stateless.³⁶⁴

Are children of single parents registered?

Yes (X) No ()

Children of single parents can register their child's birth, but children born outside of marriage shall not be registered as legitimate.

If the child is born out of wedlock, a Form 11 will need to be completed.³⁶⁵

If the parents are not married, then the Registrar shall not complete the section requiring the name and surname of the person acknowledging himself to be the father of the child unless it is entered in space 5 of Form 11 pursuant to section 15 of the Registration Act (which makes provision as to the father of an illegitimate child).³⁶⁶

In the case of an illegitimate child, the father is not obliged to give notice of the birth, and no person shall be registered as the father of that child except if there is a joint request by the mother and the father of the child. The father must acknowledge himself in writing to be the father of the child in the presence of the Registrar.³⁶⁷

Are all children born in the territory registered?

Yes (X) No ()

³⁶⁴ United Nations High Commissioner for Refugees, 'Submission for the Office of the High Commissioner for Human Rights' Compilation Report Universal Periodic Review: Zambia', April 2012, p.7, available at <http://www.refworld.org/pdfid/4f9660982.pdf>.

³⁶⁵ Lusaka City Council, 'Birth Registration', available at <http://www.lcc.gov.zm/birth-registration/>.

³⁶⁶ Section 18 (4) (b), Births and Deaths Registration (General) Rules.

³⁶⁷ Section 15, Births and Deaths Registration Act.

The Registration Act provides for the compulsory registration of all children born in Zambia.³⁶⁸

If no, please provide list of those not registered

Not applicable.

Other Requirements (if none, put n/a)

Not applicable.

Registration System Set-up

Electronic Submission () Paper Submission (X) Both ()

Although there is no recorded provision for the electronic submission of birth registration applications, the website of Lusaka City Council states that applications may be made in person or by email:

"The applicant can come to the office for Births, Marriages and Societies at Civic Centre, room 216, Old wing or you can download a Form and complete and submit either personally or email to info@lcc.gov.zm".³⁶⁹

Location of registration facilities (this may not be in legal framework)

Capital city Yes (X) No ()

Other cities Yes () No (X)

Villages Yes (X - see 'Other') No ()

Other: Selected health facilities in Luapula, Southern and Eastern provinces.³⁷⁰

The Zambian birth registration system is centralised in Lusaka. The Births and Deaths Registration Act requires Registrars to forward birth notices to the Registrar General.³⁷¹ Applicants may then apply to the Registrar General for the birth certificate to be issued.³⁷²

Birth Registration is required for:

Access to education

Yes () No (X) Law _____

³⁶⁸ Section 5, Births and Deaths Registration Act.

³⁶⁹ Lusaka City Council, "Birth Registration", available at <http://www.lcc.gov.zm/birth-registration/>.

³⁷⁰ United Nations, Zambia, "Birth Registration: A Child's Passport to Protection", available at <http://www.zm.one.un.org/node/93>.

³⁷¹ Section 7, Births and Deaths Registration Act.

³⁷² Section 5, Births and Deaths Registration Act.

We have not found any explicit requirement for birth registration to access education or obtain diplomas. However, the website of Lusaka City Council states that birth registration is required "for primary school enrolment" and "tertiary education enrolment at university or college".³⁷³

Birth certificates may be required indirectly: for example, section 16 of the Education Act 2011 (Cap. 419)³⁷⁴ provides that the Minister may, by statutory instrument, determine the school-going age of a child. However, no such regulation exists.³⁷⁵ In practice, parents and schools often rely on affidavits, 'under 5 clinic cards',³⁷⁶ or overlook the requirement to verify a child's age altogether.³⁷⁷

We have not found any legislative provision setting out requirements for access to university. However, applications to the University of Zambia,³⁷⁸ for example, require a passport or national registration card number, both of which require birth certificates, or affidavits regarding place and date of birth, in order to be obtained.

Obtaining a primary school diploma

Yes () No () Unclear (X) Law _____

See previous answer on 'Access to education'.

Obtaining a secondary school diploma

Yes () No () Unclear (X) Law _____

See previous answer on 'Access to education'.

Access to health (emergency services only)

Yes () No () Unclear (X) Law _____

According to the Zambian Ministry of Health: "Following the repeal of the National Health Services Act of 1995, the health sector has been operating without an overarching legal framework."³⁷⁹

Access to health (primary health services only)

Yes () No () Unclear (X) Law _____

³⁷³ Lusaka City Council website, op.cit.

³⁷⁴ Section 16, Education Act.

³⁷⁵ United States Bureau of International Labor Affairs, "Zambia: Moderate Advancement", available at <http://www.refworld.org/pdfid/5448a89f1.pdf>.

³⁷⁶ Gethsemane Mwizabi, "Birth Certificate Mystery: Zambia Should Decentralise Registration", Times of Zambia, 20 June 2014, <http://www.times.co.zm/?p=25049>.

³⁷⁷ Judith Konayuma, "Do your children exist unofficially?", Zambia Daily Mail, 25 May 2015, available at <https://www.daily-mail.co.zm/?p=30587>.

³⁷⁸ University of Zambia, "Application for Admission to Postgraduate Study", available at <https://www.unza.zm/downloads/finish/10-pg/10-application-form-2014>.

³⁷⁹ Republic of Zambia Ministry of Health, "Towards attainment of health related Millennium Development Goals and Other National Health Priorities in a clean, caring and Competent environment", available at <http://www.moh.gov.zm/docs/nhsp.pdf>.

See previous answer on 'Access to health (emergency services only)'.

Access to health (all services)

Yes () No () Unclear (X) Law _____

See previous answer on 'Access to health (emergency services only)'.

Access to social security programmes/cash benefits

Yes () No () Unclear (X) Programme name *National Pension Scheme ("NAPSA")*. Law *National Pension Scheme Act 1996 (Cap. 256) ("National Pension Scheme Act")*.³⁸⁰

Section 13(13) of the National Pension Scheme Act requires registered employers to register each of their employees as a member of NAPSA “by notifying the Director-General of such particulars of the employee as may be prescribed” (except those exempted in the Second Schedule of the National Pension Scheme Act).³⁸¹ We did not find any regulations prescribing such particulars. We have obtained a copy of the NAPSA “Member Registration/Amendment Form no. NPS 421” (“**NAPSA Form**”)³⁸² in order to determine the documents required and particulars to be verified, in practice, for registration.

Part One of the NAPSA Form requires a national registration card number and/or passport number, which can only be obtained where proof of birth is procured (see the answers on “Identification card” and “Passport” below).

There is no indication on the NAPSA Form as to what documents need to be produced in support of the application. Part Three of the Form requires details of the applicant's parents, which might require a birth certificate proving parentage.

Nationality

Yes (X) No () Law *Citizenship of Zambia Act (Cap. 124) ("Citizenship Act")*³⁸³ and *Constitution of Zambia 1996 ("Constitution")*.³⁸⁴

A child born within the territory of Zambia shall be considered a citizen of Zambia. However, upon reaching the age of 21, the person must apply to the Citizenship Board for the confirmation of citizenship.³⁸⁵

Article 5 of the Constitution provides that a person shall become a citizen of Zambia if one of their parents is a citizen of Zambia, regardless of where that person was born. In accordance with this

³⁸⁰ National Pension Scheme Act (Cap. 256).

³⁸¹ Section 13, National Pension Scheme Act.

³⁸² National Pension Scheme Authority, “Who Should Register With NAPSA?”, available at http://www.napsa.co.zm/?page_id=101. A copy of the NAPSA Form is reproduced at Appendix 1.

³⁸³ Citizenship of Zambia Act (Cap. 124).

³⁸⁴ Constitution of Zambia 1996.

³⁸⁵ Multiplecitizenship.com, 'Zambia', available at http://www.multiplecitizenship.com/wscl/ws_ZAMBIA.html.

provision, section 12(1) of the Citizenship Act provides that any person not of full age who is the child of a citizen may be registered as a citizen upon application made in the prescribed manner by a parent or guardian. Rule 10 of the Citizenship of Zambia Regulations ("**Citizenship Regulations**")³⁸⁶ prescribes the form in which the application is to be made as Form 6. Form 6³⁸⁷ requires the applicant to produce the child's birth certificate or a sworn affidavit of date and place of birth, and also the same for one of the parents.

Rule 18(2)(a) of the Citizenship Regulations states that:

"In any application made under the [Citizenship] Act - ,

(a) any statement concerning particulars of birth shall be supported by a birth certificate issued in respect of such birth or an affidavit of the date and place of such birth

(b) any statement concerning particulars of marriage shall be supported by a marriage certificate issued in respect of such marriage;

(c) any statement concerning particulars of citizenship shall be supported by a passport, a certificate of registration, a national registration card, a birth certificate, or an affidavit of the date and place of birth, issued or, as the case may be, made on the grounds of such citizenship."

Identification card

Yes (X) No () Law *National Registration Act (Cap. 126)* ("**National Registration Act**").³⁸⁸

Anyone living in Zambia who has reached 16 years of age must register with the Government.³⁸⁹ Section 5(1)(a)(e) of the National Registration Act requires details regarding date and place of birth. Section 7 requires that proof of information be supplied where the person has power to furnish it. Failing to register is an offence.³⁹⁰

Passport

Yes (X) No () Law *Passports Act, No. 22 of 2003*.

We have not been able to find an official version of legislation regulating Zambian passports. However, we have found a scanned version of legislation entitled the Passports Act, No. 22 of 2003 ("**Passports Act Scan**"),³⁹¹ and an application form for an adult passport ("**Application Form**").³⁹² We have not been able to verify whether the Passports Act Scan is in force.

³⁸⁶ Rule 10, Citizenship of Zambia Regulations.

³⁸⁷ Form 6, First Schedule to the Citizenship of Zambia Regulations.

³⁸⁸ National Registration Act (Cap. 126).

³⁸⁹ Section 3, National Registration Act.

³⁹⁰ Section 13(1)(a), National Registration Act.

³⁹¹ The Passports Act Scan is reproduced at Appendix 2.

³⁹² The Application Form is reproduced at Appendix 3.

The Passports Act Scan provides that applications shall be in the prescribed form,³⁹³ but we have not been able to find any regulations prescribing such form.

The Passports Act Scan also provides for people to be able to include particulars of their children in their passport.³⁹⁴ Again, the Passports Act Scan requires such an application to be in the prescribed form,³⁹⁵ but we were unable to find regulations prescribing the required form.

Section 4 of the Application Form requires applicants to produce their birth certificates. However, just as for applications for citizenship, it appears that an affidavit of the date and place of birth may be used instead of a birth certificate: the checklist for documents provided set out in the “official use only” section of the Application Form³⁹⁶ states “Applicant’s birth certificate or affidavit”.

Other (Please specify e.g. enrolment for social protection programme/ food bank)

Inheritance

Where a parent dies intestate, the Intestate Succession Act (Cap. 59) provides for children to inherit a proportion of the estate.³⁹⁷ Where there is a dispute, a child will need to prove its parentage, and where DNA testing is not feasible, a birth certificate would be required as evidence.

Banking

Opening a bank account for a Zambian child requires the production of their birth certificate or record.³⁹⁸

Voting

Voting in Zambia requires a national registration card (see previous answer on “Identification card”), which can only be obtained when proof of birth is presented.³⁹⁹

References

Legislation Reviewed:

- Births and Deaths Registration Act 1973 (Cap. 51), available at

³⁹³ Section 5(2), Passports Act Scan (Appendix 2).

³⁹⁴ Section 6(1), Passports Act Scan (Appendix 2).

³⁹⁵ Section 6(1), Passports Act Scan (Appendix 2).

³⁹⁶ Page 3 of the Passport Application Form (Appendix 3).

³⁹⁷ Section 5(1)(b), Intestate Succession Act (Cap. 59).

³⁹⁸ FNB, “Future Account”, available at <https://www.fnbzambia.co.zm/personal/transactional-accounts/future-account.html>.

³⁹⁹ Electoral Commission of Zambia, “Voter Registration Info”, available at http://www.elections.org.zm/voter_registration_info.php.

<http://www.parliament.gov.zm/sites/default/files/documents/acts/Births%20and%20Deaths%20Registration%20Act.pdf>

- Citizenship of Zambia Act (Cap. 124), available at <http://www.parliament.gov.zm/sites/default/files/documents/acts/Citizenship%20of%20Zambia%20Act.pdf>
- Citizenship of Zambia Regulations, available at <http://www.parliament.gov.zm/sites/default/files/documents/acts/Citizenship%20of%20Zambia%20Act.pdf>
- Constitution of Zambia 1996, available at <http://aceproject.org/ero-en/regions/africa/ZM/Constitution%20of%20Zambia%201996.pdf>
- Education Act (Cap. 419), available at <http://www.parliament.gov.zm/sites/default/files/documents/acts/Education%20Act%202011.pdf>
- Intestate Succession Act (Cap. 59), available at <http://www.parliament.gov.zm/sites/default/files/documents/acts/Intestate%20Succession%20Act.pdf>
- National Pension Scheme Act (Cap. 256), available at http://mlss.gov.zm/upload/Social_Security/NAPSA%20Act.pdf
- National Registration Act (Cap. 126), available at <http://www.parliament.gov.zm/sites/default/files/documents/acts/National%20Registration%20Act.pdf>
- Passport Act, No. 22 of 2003. The text of this legislation is reproduced at Appendix 2.

Further Sources:

- Application for a Zambian Passport for Persons over Sixteen Years of Age. A copy of this application form is reproduced at Appendix 3.
- Electoral Commission of Zambia, "Voter Registration Info", available at http://www.elections.org.zm/voter_registration_info.php
- FNB, "Future Account", available at <https://www.fnbzambia.co.zm/personal/transactional-accounts/future-account.html>
- Gethsemane Mwizabi, "Birth Certificate Mystery: Zambia Should Decentralise Registration", Times of Zambia, 20 June 2014, available at <http://www.times.co.zm/?p=25049>
- High Commission of Zambia in South Africa, "Birth Certificates", available at <http://www.zambiapretoria.net/birth-certificates/>
- Judith Konayuma, "Do your children exist unofficially?", Zambia Daily Mail, 25 May 2015, available at <https://www.daily-mail.co.zm/?p=30587>
- Lusaka City Council, "Birth Registration", available at <http://www.lcc.gov.zm/birth-registration/>

- Ministry of Health, “National Health Strategic Plan 2011-2015”, available at <http://www.moh.gov.zm/docs/nhsp.pdf>
- Moses, "Transfer of the Function of Registration of Birth and Deaths", Lusaka City Council, 28 May 2015, available at <http://www.lcc.gov.zm/transfer-of-the-function-of-registration-of-births-and-deaths/>
- Multiplecitizenship.com, 'Zambia', available at http://www.multiplecitizenship.com/wscl/ws_ZAMBIA.html
- National Pension Scheme Authority, “Who Should Register With NAPSA?”, available at http://www.napsa.co.zm/?page_id=101
- NAPSA Member Registration /Amendment Form. A copy of this form is reproduced at Appendix 1.
- United Nations High Commissioner for Refugees, 'Submission for the Office of the High Commissioner for Human Rights' Compilation Report Universal Periodic Review: Zambia', April 2012, available at <http://www.refworld.org/pdfid/4f9660982.pdf>
- United Nations, Zambia, “Birth Registration: A Child's Passport to Protection”, available at <http://www.zm.one.un.org/node/93>
- United States Bureau of International Labor Affairs, “Zambia: Moderate Advancement”, available at <http://www.refworld.org/pdfid/5448a89f1.pdf>
- University of Zambia, “Application for Admission to Postgraduate Study”, available at <https://www.unza.zm/downloads/finish/10-pg/10-application-form-2014>
- Website of the Department for National Registration, Passports and Citizenship, available at http://www.homeaffairs.gov.zm/?q=national_registration_passport_and_citizenship_department

Appendix 1 - NAPSA Member Registration/Amendment Form



NATIONAL PENSION SCHEME AUTHORITY

FORM NO. NPS421

MEMBER REGISTRATION/AMENDMENT FORM

INSTRUCTIONS

- Please ensure that you complete all the details. As much as possible avoid abbreviating names.
- List down the names of beneficiaries. These should be restricted to spouse and children.
- Complete the form in Ink only and should be in CAPITAL LETTERS.
- For any change of personal or beneficiaries details, indicate your Social Security Number

PART 1

PERSONAL DETAILS

SOCIAL SECURITY NUMBER

N.R.C NO.

(ZAMBIAN)

PASSPORT/PERMIT
NUMBER:

(FOREIGNER)

TITLE

☐

Sir

Dr

☐

Mr

Mrs

☐

Lady

Ms

☐

Dr. Mrs

SURNAME

OTHER
NAMES

MAIDEN
NAME

SEX

☐

(Write 'M' for Male or 'F' for Female)

DATE OF
BIRTH

D D M M C C Y Y

MARITAL STATUS

☐

SINGLE

☐

MARRIED

☐

DIVORCED

☐

WIDOW

☐

WIDOWER

☐

SEPARATED

POSTAL
ADDRESS

POSTAL
NAME

TOWN
NAME

POSTAL
CODE

PHONE NUMBER

FAX

E-mail

PART 2

EMPLOYER DETAILS

EMPLOYER
ACCOUNT No.

DATE JOINED
EMPLOYER

D D M M C C Y Y

EMPLOYER NAME

OCCUPATION

PROVINCE

PART 3

PARENTS DETAILS

FATHER'S SURNAME

FATHER'S OTHER NAMES

MOTHER'S SURNAME

MOTHER'S OTHER NAMES

PART 4

BENEFICIARIES DETAILS

Write details of spouse and children. If there is any change, supply fresh details of current beneficiaries.

N.R.C. No.	SURNAME	OTHER NAMES	DATE OF BIRTH	SEX	RELATIONSHIP

DECLARATION

I DECLARE THAT THE INFORMATION SUBMITTED ABOVE IS CORRECT TO THE BEST OF MY KNOWLEDGE.

EMPLOYEE/MEMBER'S SIGNATURE.....

DATE

		/		/					
D	D		M	M		C	C	Y	Y

OFFICIAL USE ONLY

REGISTERED/AMENDED BY.....

DATE

		/		/					
D	D		M	M		C	C	Y	Y

SOCIAL SECURITY NUMBER
FOR NEW REGISTRATION

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Appendix 2 - Act No.22 of 2003 ("Passports Act Scan")

Passports

[No. 22 of 2003 193

GOVERNMENT OF ZAMBIA

ACT

No. 22 of 2003

Date of Assent: 11th December, 2003

An Act to provide for the vesting of powers and duties with respect to the issuance of, and control over, passports and travel documents, and to provide for matters connected with, or incidental to the foregoing.

[12th December, 2003

ENACTED by the Parliament of Zambia.

Enactment

1. This Act may be cited as the Passports Bill, 2003 and shall come into operation on such date as the Minister may, by statutory instrument, appoint.

Short title and
commencement

2. In this Act, unless the context requires—

Interpretation

“Chief Passport Officer” means the person appointed as Chief Passport Officer under section *three*;

“citizen” means a citizen of Zambia;

“passport” means a passport issued in terms of this Act and includes a passport issued by a Government of a foreign country to a citizen of that country;

“travel document” means any travel document other than a passport issued in terms of this Act and includes a travel document issued by a Government of a foreign country to a citizen of that country; and

“Zambian Mission” means a High Commission, Embassy or Consular Office of the Zambian Government and includes any other office that the Minister may, by statutory instrument, prescribe.

3. There shall be appointed by the Public Service Commission, as public officers, a Chief Passport Officer and such passport officers as shall be necessary for the proper administration of this Act.

Appointment
of Chief
Passport
Officer and
passport
officers

Functions of Chief Passport Officer	<p>4. (1) The functions of the Chief Passport Officer under this Act may be exercised and performed by the Chief Passport Officer in person or by a passport officer acting in accordance with the Chief Passport Officer's general or special directions.</p> <p>(2) In the performance of functions under this Act the Chief Passport Officer shall act in accordance with the direction of the Minister.</p>
Issue of passport	<p>5. (1) On application being made, the Chief Passport Officer shall, within twenty-one days of receipt of an application for a passport, issue a passport to any citizen of Zambia who satisfies such conditions as the Minister may, by statutory instrument, prescribe.</p> <p>(2) The application referred to in subsection (1) shall be in the prescribed form and shall be accompanied by the prescribed application fee and such documents as may be prescribed.</p> <p>(3) Every passport issued under subsection (1) shall be in the prescribed form and shall specify the countries for which the passport is valid.</p> <p>(4) Subject to section <i>eight</i> every passport issued under subsection (1) shall be valid for a period of ten years from the date of issue:</p> <p>Provided that a passport issued in respect of a child who is below the age of ten years shall be valid for a period of five years from the date of issue.</p> <p>(6) Any passport issued under subsection (1) may, on application being made, be renewed or endorsed by the Chief Passport Officer as the Chief Passport Officer considers necessary.</p> <p>(7) The Chief Passport Officer may—</p> <p>(a) upon the request of an applicant; or</p> <p>(b) if there is good reason to restrict an applicant to a journey to a specific country or countries;</p> <p>endorse the passport of such applicant as valid for a specific country or countries as requested or restricted.</p> <p>(8) Where the Chief Passport Officer restricts the validity of a person's passport to a specific country or countries under subsection (7), the Chief Passport Officer shall record the reasons for such restriction and furnish a report on the matter to the Minister.</p>
Inclusion of child's particulars in parent's passport	<p>6. (1) Subject to subsections (2) and (3), any person may apply to the Chief Passport Officer, in the prescribed form, for the inclusion of the particulars of that person's child who is under the age of ten years in that person's passport.</p> <p>(2) Subject to subsections (3) and (4), a child's particulars shall not be included in a parent's passport unless the other parent has given their consent in writing, to the child's particulars being included in the applicant parent's passport:</p>

Provided that the parent whose consent is required in terms of this section shall not unreasonably withhold the consent.

(3) The consent of a parent referred to in subsection (2) shall not be necessary—

- (a) if the parent in whose passport the child's particulars are to be included, has been appointed as sole guardian of that child by order of a court; or
- (b) where a court has, on an action brought by the applicant parent, made an order dispensing with the need to obtain the consent of the other parent.

(4) Notwithstanding subsection (2), where—

- (a) the circumstances of a case so determine; or
- (b) it is proved to the satisfaction of the Chief Passport Officer that—
 - (i) the welfare of a child, whether born within or outside wedlock, has been taken care of solely by the parent who has applied for the particulars of the child to be included in that parent's passport; and
 - (ii) the parent whose consent would under normal circumstances be required has wilfully failed to provide for the needs of the child;

the Chief Passport Officer may dispense with the requirement for the consent of the other parent.

(5) Where the Chief Passport Officer dispenses with the requirement for consent under subsection (4) the Chief Passport Officer shall record the reasons for the decision to dispense with the consent.

(6) The particulars of a child which are endorsed in that child's parent's passport under this section shall, upon the child attaining the age of ten, be deleted from such parent's passport.

7. (1) Where an application is made for the issue, renewal or endorsement of a passport under section five, the Chief Passport Officer may refuse to issue, renew or endorse such passport if the Chief Passport Officer is satisfied that—

Refusal to
issue
passport

- (a) the application is in respect of a minor suspected of being taken out of Zambia against an order of a court or against the wishes of the responsible parent;
- (b) the applicant has been prohibited by a competent court to hold a Zambian passport;
- (c) the applicant has been convicted of a criminal offence and the sentence of the court has not been satisfied or set aside;
- (d) a warrant for the arrest of the applicant has been issued by a court under any written law;

- (e) has previously been repatriated or deported to Zambia, and the reasons for the applicant's repatriation or deportation still stand;
- (f) the departure of the applicant from Zambia would be in breach of any international obligation of the Government, particulars of which have been notified to the Government; or;
- (g) the applicant is of unsound mind:

Provided that where the person of unsound mind requires the passport for travel to secure medical attention or for such other special circumstances as the Chief Passport Officer may, on the advice of the medical practitioner determine the Chief Passport Officer shall issue a passport.

(2) Where the Chief Passport Officer refuses to issue a passport under subsection (1) the Chief Passport Officer shall, within fourteen days of making the decision, notify the applicant of the decision stating the reasons for the refusal to issue the passport.

Cancellation
of
passport

8. (1) The Chief Passport Officer may cancel the passport of any person on any ground on which the Chief Passport Officer may refuse to issue a passport to that person if the person were an applicant under section five and may further cancel the passport of a person who—

- (a) ceases to be a citizen of Zambia;
- (b) permits another person to use that person's passport;
- (c) has obtained the passport or secured the inclusion of the name of a child in the passport through fraud or misrepresentation;
- (d) has been repatriated or deported to Zambia or has returned to Zambia at Government expense due to that person's misconduct;
- (e) in another country uses the passport to commit a criminal offence which would constitute a criminal offence if the offence were committed in Zambia and is convicted of that offence in that country; or
- (f) is deceased.

(2) Where the Chief Passport Officer cancels a passport under subsection (1) the Chief Passport Officer shall, within fourteen days of making the decision to cancel the passport, notify the applicant of the decision stating the reasons for the cancellation of the passport.

9. (1) Any person aggrieved by any refusal of the Chief Passport Officer to issue a passport or travel document or by the cancellation of a passport or travel document may appeal to the Minister not later than thirty days after the notification of such refusal or cancellation.

Appeal against refusal to issue or decision to cancel passport

(2) Where an appeal is made under subsection (1), the Minister may give such directions to the Chief Passport Officer as the Minister may consider necessary to enable the Minister to determine the appeal.

(3) The Minister, in determining the appeal, may confirm, vary or set aside the decision of the Chief Passport Officer.

(4) Any person who is aggrieved by the decision of the Minister may appeal to the High Court within thirty days of receiving notification of the Minister's decision.

10. (1) The Chief Passport Officer or a passport officer may take and retain possession of any passport in any case where the Chief Passport Officer or the passport officer has reason to believe that the passport is in the wrongful possession of any person or that the passport or a renewal or endorsement of the passport has been obtained by means of fraud or misrepresentation or by means of any statement that is false in a material particular.

Taking possession of passport

(2) Any person who has in that person's possession, or control, a passport referred to in subsection (1) shall, on demand, forthwith deliver it to the Chief Passport Officer or a passport officer.

(3) Any person who fails without reasonable excuse to deliver a passport, on demand, to a Chief Passport Officer or passport officer commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

11. (1) A diplomatic passport may be issued to—

Diplomatic passport

(a) diplomats of the Zambian Foreign Service, and their spouses; and

(b) such other persons as the Minister may, by statutory instrument, determine.

(2) The provisions of this Act relating to the issue of passports shall apply with necessary modification to the issue of diplomatic passports under this section.

12. Where for any reason it is desirable to issue a passport of full validity for a journey to a foreign country in circumstances in which a travel document would normally be issued if a journey was made to a Commonwealth country, a passport shall be issued.

Passport may be issued in place of travel document

13. (1) Where it is not reasonably practicable to issue a passport, the Chief Passport Officer may, on application being made, issue a

Issue of travel document

	travel document which shall be in such form as may be prescribed.
	(2) The provisions of this Act relating to passports shall apply with necessary modification to travel documents issued under subsection (1).
Issue of travel documents to stateless persons	<p>14. (1) The Chief Passport Officer may on the direction of the Minister issue a travel document to a stateless person for travel to a specified country.</p> <p>(2) In this section "stateless person" means a person who is not considered as a national by any State under the operation of its law.</p>
Passport officers to issue passports at Zambian Missions	<p>15. (1) The Minister may, by statutory order, authorise any passport officer based at a Zambian mission abroad to exercise in the country in which the mission is situated all or any of the powers and functions of the Chief Passport Officer under this Act, and in every such case the provisions of this Act shall apply with necessary modification.</p> <p>(2) In the exercise of the powers and functions of the Chief Passport Officer under this section, every passport officer shall act in accordance with the general or special directions of the Minister or the Chief Passport Officer.</p>
Person not to enter or leave Zambia without passport, etc.	<p>16. (1) Subject to subsection (3) a person shall not enter or leave Zambia unless—</p> <p>(a) the person is in possession of a valid passport or travel document issued under this Act; or</p> <p>(b) in the case of a foreign national, the person is in possession of a valid passport or some other travel document issued by or on behalf of the government of the country of which the person is a citizen or national.</p> <p>(2) Every person entering or leaving Zambia shall, on demand by a passport officer or an immigration officer, produce that person's passport or other travel document referred to in subsection (1).</p> <p>(3) Notwithstanding subsection (1), the Minister may, by statutory instrument, exempt, subject to such conditions as the Minister may determine, any person or such class of persons as the Minister may specify from the provisions of subsection (1).</p>
Delivery of passport	<p>17. (1) Any person who is required to produce a passport or travel document under subsection (2) of section <i>sixteen</i> shall if required to do so deliver the passport to a passport officer or an immigration officer before leaving the aircraft, vessel or motor vehicle in which the person enters Zambia or at any time while the person is in Zambia.</p>

(2) Subject to subsection (3), a passport or travel document delivered to a passport officer or an immigration officer under subsection (1) shall be returned to the holder of the passport on the departure of the holder from Zambia.

(3) The Chief Passport Officer or a passport officer may withhold, for such time as may be determined by the Minister, a passport or travel document delivered under subsection (1) on any ground specified in section seven if that passport or travel document belongs to a citizen of Zambia.

(4) Any person who fails without reasonable excuse to deliver to the Chief Passport Officer or a passport officer the person's passport or travel document when required to do so commits an offence.

18. (1) Where a passport is lost or stolen the holder of the passport shall—

Replacement
of lost or
stolen
passport

(a) as soon as practicable after becoming aware of the loss or theft of the passport report the loss or theft of the passport to the nearest police station in the district or country in which the passport was lost or stolen; and

(b) file a report on the loss or theft of the passport with the Chief Passport Officer.

Provided that where a passport is lost outside Zambia the holder of the passport shall file a report with the passport officer at a Zambian mission.

(2) The report referred to in subsection (1) shall be accompanied by—

(a) an application, in the prescribed form, for the replacement of the passport;

(b) a police report issued in response to the report made under paragraph (a) of subsection (1);

(c) an affidavit stating the circumstances under which the passport was lost or stolen; and

(d) the prescribed fee.

(3) The Chief Passport Officer shall if satisfied with the documentation presented in terms of subsection (2) issue the applicant with a new passport:

Provided that the Chief Passport Officer may refuse to issue a new passport where not so satisfied.

(4) Where the Chief Passport Officer refuses to issue the applicant with a new passport under subsection (3) the Chief Passport Officer shall within seven days of making the decision not to issue a new passport notify the applicant of the refusal stating the reasons for such refusal.

(5) Any person aggrieved by any refusal of the Chief Passport Officer to issue a new passport under this section may appeal to the Minister not later than thirty days after the notification of such refusal or cancellation.

(6) Where an appeal is made under subsection (5), the Minister may give such directions to the Chief Passport Officer as the Minister may consider necessary to enable the Minister to determine the appeal.

(7) The Minister in determining the appeal may confirm, vary or set aside the decision of the Chief Passport Officer.

(8) Any person who is aggrieved by the decision of the Minister may appeal to the High Court within thirty days of receiving notification of the Minister's decision.

Offences and
penalties

19. (1) A person who—

(a) makes any representation or statement which the person knows to be false in a material particular; or

(b) recklessly makes any statement which is false in a material particular;

for the purpose of obtaining a passport under this Act commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

(2) A person who having come into possession of a passport or travel document belonging to another person—

(a) represents the passport or travel document as belonging to any person other than the person to whom it belongs;

(b) fails to hand over the passport as soon as practicable to the person to whom it belongs or to the Chief Passport Officer; commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

(3) A person who forges, alters, defaces, destroys, or mutilates any passport or travel document or causes another person to forge, alter, deface, destroy, or mutilate any passport or travel document commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

(4) A person, who permits another person to use, for an unlawful purpose, a passport or travel document which belongs to that person or which is under that person's control commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

(5) Any person who has in that person's possession a passport or travel document or any part thereof which is forged, altered, defaced, or mutilated or whose particulars are incorrect commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

(6) Any person who refuses or fails to return a passport or travel document to the Chief Passport Officer when so requested by the Chief Passport Officer commits an offence and shall be liable, on conviction, to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

(7) Any person found in possession of two or more valid passports or travel documents in that person's name commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

(8) Any person who sells passport application forms when not entitled to do so commits an offence and shall be liable, on conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term of not less than six months but not exceeding one year, or to both.

(9) Any person who sells blank passports or travel documents commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

(10) Any person who procures a passport for, or assists a foreigner to acquire a passport under this Act commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

20. (1) Any person who commits an offence under this Act for which no penalty is provided shall, on conviction, be liable in the case of a first offence, to a fine not exceeding one thousand five hundred penalty units or to imprisonment for a term not exceeding one year and, in the case of a second or subsequent offence, to a fine not exceeding three thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

General
penalty

21. (1) The Minister may make such regulations as the Minister may consider necessary for the proper carrying out of the provisions of this Act.

Regulations

(2) Without prejudice to the generality of subsection(1), regulations made under this section shall provide for—

- (a) the form of passports, travel documents, or other documents to be used for the purposes of this Act;
- (b) the manner in which applications are to be made for the issue of a Zambian Passport or travel document, or for the renewal thereof, including—
 - (i) any particulars or information which is to be furnished in the application;
 - (ii) any documents which are to accompany any such application or are to be produced when making any such application; and
 - (iii) any forms which are to be used in any application;
- (c) the issue, renewal or endorsement of passports or travel documents issued under this Act and the conditions to be satisfied for the issue, renewal or endorsement of such passports, or travel documents;
- (d) the forms to be used in the application for passports or travel documents under this Act;
- (e) the fees to be paid for any passport or travel document under this Act;
- (f) the exemption of any person or class of persons from payment of the fees referred to in paragraph (e); and
- (g) anything which is to be or which may be prescribed under this Act.


Savings

22. (1) The person who was serving as Chief Passport Officer shall upon the commencement of this Act continue to hold office as if appointed under section *three* of this Act.

(2) Any person who was serving as passport officer shall upon the commencement of this Act continue to hold office as if appointed under section *three* of this Act.


(3) Every passport, diplomatic passport or travel document which was valid and was issued by the Chief Passport Officer before the commencement of this Act shall on the commencement of this Act have effect as if issued under this Act.

Appendix 3 - Passport Application Form



REPUBLIC OF ZAMBIA

Sticker by CPO



(Surname)
(Other Names)

Please write your name here

FORM 'A'

APPLICATION FOR A ZAMBIAN PASSPORT FOR PERSONS OVER SIXTEEN YEARS OF AGE

FEE K70,000 FOR A 32 PAGE PASSPORT IN CASH. IT IS REGRETTED THAT CHEQUES ARE NOT ACCEPTABLE.

IMPORTANT. Read instruction carefully before completing the form

NOTES

HOW TO COMPLETE THE FORM

1. Section 1, 3, 5, 6 and 8 of this form must be completed in English by all applications for new passports. Section 2 and 4 must also be completed by those to whom these sections apply.

Section 3 must be completed if the applicant's children under 16 are to be included in the passport. The same documentation is required for separate passport (See Note 4). The marriage certificate must also be produced.

The form should be clearly written in the applicant's own handwriting using block capitals for all names.

Children over 16 years of age may not be included in an adult's passport.

Application for a separate passport for a child under 16 should be made on form 'B'.

2. **Authentication of application.** The application must be authenticated and sponsored in Section 9 by a Minister of Religion, Medical or Legal Practitioner, Established Senior Civil Servant, Senior Bank official, or any Zambian subject of similar standing who has been personally acquainted with the applicant for at least two years. A member of the applicant's family is not acceptable as a recommender. (See also Note 3).

3. **Photographs** Two copies of a recent photograph of the applicant must be included with the application. These must be taken full face without hat and must not be mounted. The size must not be more than 64 mm by 51 mm or less than 51 mm by 38 mm. They must be printed on normal photographic paper and not be glazed on the reverse side. The recommender is also required to endorse the reverse side of one copy with the words: 'I certify that this is a true likeness of the applicant Mr. (Mrs or Miss).....' and add his signature.

All photographs included with an application become the property of the Government of the Republic of Zambia when it is lodged.

4. **Documents to be produced.**

(a) If applicant was born in Zambia-
Applicant's birth Certificate (or previous passport).

(b) If the applicant was born outside Zambia of a Zambia parent-
(i) applicant's birth certificate and his/her parents' marriage Certificate;
(ii) his/her parents birth certificate, naturalization or registration document, or other evidence of Zambian nationality;
(iii) If applicant's birth was registered at a Zambian Mission abroad details of that registration must be given in Section 4.

(c) If applicant is a citizen of Zambia by naturalization or by registration-
Applicant's naturalization or registration document.

(d) A foreign woman who has married a citizen of Zambia must produce evidence of her own registration as a citizen of Zambia.

(e) If children under 16 are to be included in a passport their birth certificate/s must be produced.

(f) Married persons must produce their marriage certificate/s.

(g) Children under 21 years of age may not be granted passports or be included in the passports of other persons without the written consent of the legal guardian, or parent, except where the person under 21 is married.

Letters of consent should state the relationship to the child.

(NB-Any other person, claiming legal custody during lifetime of the parent must produce the Court Order committing the child to her or that person's custody.)

(h) A change of name other than by marriage or adoption must be substantiated by the production of evidence showing that a bona fide change has been made for all purposes.

(i) In the absence of birth certificates the applicant must produce properly sworn affidavits, using Form N.

APPLICATION FORM 'A' To be completed in ink in the applicant's own handwriting.
NOTE - Do not sign this form until you have read the notes on Page 1

PERSONAL DETAILS		PERSONAL DESCRIPTION
1. Surname <small>(or maiden surname)</small> (State whether Mr, Mrs, Miss)		Profession or Occupation
Other Names <small>(if full name given)</small>		
Age last birthday	Date of Birth (country)	Residence
Place and Country of birth		Height m cm
Marital Status: Single, Married, Widowed, Divorced <small>(delete which does not apply)</small>		Colour of eyes
Maiden Surname: (if applicant is a woman who is or has been married)		Colour of Hair
Has name been changed? (otherwise than by marriage)		Special permissions
Yes If so, state original name (see NOTE 4 (b)) No		
Present address <small>(not for use by Registrar)</small>		
Usual place of residence <small>(or place of employment)</small>		
Place and Country of birth of parent		
National status of parent: Citizen of the Republic of Zambia by birth/naturalisation. (delete which does not apply)		
*If applicant is under 21 years of age, written consent of legal guardian must be produced (see note 4 (g)).		
2. MARRIED WOMEN (including widows and divorced women) applying must complete this section.		
Place of Marriage	Date of Marriage	Husband's (or late or former husband's) nationality
Date when married was first once If correct at 'a' delete of former marriage (c) must be given on section 10		
Particulars of husband (or late or former husband)		
Surname and full other names	Place and country of birth	If husband was born outside Zambia give place and date of his father's birth
If husband is not a Zambian citizen by birth details of his descent must be given on section 10		
3. NATIONAL STATUS:		
(i) Citizen of Zambia by birth		
(ii) Citizen of Zambia by descent		
(iii) Citizen of Zambia by registration or naturalisation		
NR/Certificate No. <small>(delete which does not apply)</small>		
Date of issue <small>(delete which does not apply)</small>		
*Delete whichever is not applicable		
4. TO BE COMPLETED BY ALL PERSONS BORN OUTSIDE ZAMBIA:		
(a) If parent is a citizen of Zambia by registration, state:		
(i) No. Of his registration certificate		
(ii) Place and date of issue		
(b) If applicant's birth was registered at a Zambia Consulate abroad, or other Consulate and by Consulate abroad stating on behalf of Zambia state:		
(i) Name and Place of such Consulate		
(ii) Date of such registration		

5. CHILDREN UNDER 16 (if to be included in passport)				
Surname	Other names in full	Place and Country of birth	Date of birth	Sex and relationship to applicant
NOTE - If applicant is not the legal guardian, written consent of the legal guardian must be produced. See NOTE 4 (g)				
6. PASSPORT REQUIRED FOR TRAVEL TO THE FOLLOWING COUNTRIES				
Purpose of travel.....				
Proposed date of travel.....				
If sponsored by a Government state name of Department.....				
<p>DECLARATION. I, the undersigned, hereby apply for the issue of a passport. I declare that the information given in this application is correct to the best of my knowledge and belief, and that I have not lost the status of Zambian subject.</p> <p>I further declare:</p> <p>A that I have not previously held or applied for a passport of any description</p> <p>B that my name is not endorsed on any valid passport or travel document.</p> <p>C that all previous passports granted to me have been surrendered, other than passport or travel document No..... which is now attached and that I have made no other application for a passport since the attached passport or travel document was issued to me.</p> <p>Signature..... Date.....</p> <p>NOTE - If you had a passport which has been lost, cross out A and C and complete Section 9</p>				
<p>8. RECOMMENDER (see NOTES 2 and 3 on page 1.)</p> <p>I certify that the application has been known personally to me for Years, and that to the best of my knowledge and belief the facts stated on this form are correct. I am a Zambian subject.</p> <p>Signature..... Date.....</p> <p>Name..... ID No.....</p> <p>Place of issue..... Date of issue.....</p> <p>Profession (see NOTE 2 on page 1).....</p> <p>Address.....</p> <p>IMPORTANT - Applicants and recommenders (see Section 7 and 8) are warned that, should any statements made in connection with this application prove to be untrue, the consequences to them may be serious.</p>				
FOR OFFICIAL USE ONLY				
DOCUMENTS PRODUCED TO BE NOTED HERE				
Applicant's birth certificate or affidavit	Wife's birth certificate or affidavit	Husband's birth certificate or affidavit	Children's birth certificate or affidavit	Marrings Certificate

(PLEASE SEE OVERLEAF)

9.	<p>PARTICULARS OF PREVIOUS PASSPORT WHICH HAS BEEN LOST OR IS NOT AVAILABLE FOR PRESENT USE (See Section 7, overleaf).</p> <p>No. issued at On Bearer's name at time of issue Circumstances in which passport was lost or destroyed, or other reasons for its non-availability Place and date of loss What measures were taken at the time of reporting the loss? Has it been reported to the Police? If 'no', state where and when I certify that the above particulars are correct and undertake in the event of the passport coming again into my possession to return it to the Passport Office, Lusaka, to a Zambia Embassy or to a Zambian High Commissioner's Office for cancellation. Signed Date</p>
10.	<p style="text-align: center;">SUPPLEMENTARY INFORMATION</p> <p>.....</p> <p>.....</p> <p>.....</p>
11.	<p style="text-align: center;">LEGAL GUARDIAN'S CONSENT</p> <p>I, (FULL NAMES), residing at the legal guardian of (Full Name(s)), hereby give my consent for him/her/them (a) to hold a passport OR (b) to be included in the passport.</p> <p>Signature: Date: Relationship to child: (see NOTE 4 (a))</p>
<p style="text-align: center;">FOR OFFICIAL USE ONLY</p> <div style="border: 1px solid black; height: 150px; width: 100%; margin-top: 10px;"></div> <div style="border: 1px solid black; width: 100px; height: 100px; float: right; margin-top: 10px; text-align: center; vertical-align: middle;"> Amount of fee paid </div> <div style="clear: both;"></div>	

ZIMBABWE

QUESTIONNAIRE ON BIRTH REGISTRATION ZIMBABWE

Key Points

- It is compulsory to register all births in Zimbabwe within 42 days.
- Birth registration for children under the age of six is free of charge.
- Birth registration is essential for accessing the majority of services within Zimbabwe.

Name of official authority in charge of registering a child's birth:

Zimbabwe Registrar General of Births and Deaths.

Where is the civil registry located in the government?

- () Ministry of Justice
- (X) Ministry of Interior - Ministry of Home Affairs
- () Electoral Agency
- () Independent Entity
- () Other

The Department of the Registrar General sits within the Ministry of Home Affairs.⁴⁰⁰

Law: Births and Deaths Registration Act [Chapter 5:02] ("**BDRA**").⁴⁰¹

Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?

The Zimbabwean Constitution ("**Constitution**"),⁴⁰² which was approved in a referendum of 16 March 2013,⁴⁰³ provides for *both jus sanguinis* and *jus soli* determination. *Jus soli* determination is, in most

⁴⁰⁰ Ministry of Home Affairs, "About Us", available at <http://www.moha.gov.zw/index.php/sample-sites-2/2014-05-14-09-42-53>.

⁴⁰¹ Part II, Births and Deaths Registration Act [Chapter 5:02], available at http://www.parlzim.gov.zw/attachments/article/89/BIRTHS_AND_DEATHS_REGISTRATION_ACT_5_02.pdf; also available at http://www.africanchildforum.org/cfr/Legislation%20Per%20Country/Zimbabwe/zimbabwe_birthreg_2005_en.pdf.

⁴⁰² Constitution of Zimbabwe Amendment (No. 20) Act 2013, available at <http://www.zhrc.org.zw/index.php/zhrc-documents/legal-framework/1-constitution-of-zimbabwe->

cases, dependent upon an existing connection in terms of lineage (either parents or grandparents) in accordance with section 36 of the Constitution entitled "Citizenship by birth".

Section 36(1) of the Constitution provides that:

"persons are Zimbabwean citizens by birth if they were born in Zimbabwe and when they were born:

(a) either their mother or their father was a Zimbabwean citizen; or

(b) any of their grandparents was a Zimbabwean citizen by birth or descent".

Section 36(2) provides that:

"persons born outside of Zimbabwe are Zimbabwean citizens by birth if, when they were born, either of their parents was a Zimbabwean citizen and:

(a) ordinarily resident in Zimbabwe; or

(b) working outside Zimbabwe for the State or an international organisation".

Section 36(3) further provides that:

"a child found in Zimbabwe who is, or appears to be, less than fifteen years of age, and whose nationality and parents are not known, is presumed to be a Zimbabwean citizen by birth".

Is there any legal obligation to register children?

Yes (X) No ()

If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.

The BDRA provides that:

*"Subject to this Act, notification and registration of birth, still-birth or death of any person which occurs in Zimbabwe after 20th June, 1986, shall be compulsory."*⁴⁰⁴

On the international plane, Zimbabwe ratified the United Nations Convention for the Rights of the Child in 1990⁴⁰⁵ and the African Charter on the Rights and Welfare of Children in 1995,⁴⁰⁶ both of which provide for the right of children to be registered at birth.⁴⁰⁷

[amendment-no-20-act-2013/file](#). The revised Constitution is incorporated at the Schedule (Section 2).

⁴⁰³ BBC News, "Zimbabwe approves new Constitution", 19 March 2013, available at <http://www.bbc.co.uk/news/world-africa-21845444>.

⁴⁰⁴ Section 10, Births and Deaths Registration Act.

⁴⁰⁵ United Nations Treaty Collection, "Convention on the Rights of the Child", available at https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=iv-11&chapter=4&lang=en.

⁴⁰⁶ African Commission on Human and People's Rights, "African Charter on the Rights and Welfare of Children: Ratification Table", available at <http://www.achpr.org/instruments/child/ratification/>.

Does the child need to be registered within a certain amount of time from birth?

Yes (X) No ()

If yes, by when?

Registration is to occur within 42 days of a child's birth, and, at the latest, before the expiry of 12 months.⁴⁰⁸ Registration sought after 12 months requires the written authority of the Registrar-General.⁴⁰⁹ In the case of still-births, notice is to be provided within 30 days of the still-birth occurring.⁴¹⁰

Is a paper certificate issued as a result of the registration?

Yes (X) No ()

Although registration is administered at the district level, the issue of certificates appears to be centralised and provided through the Registrar General, Central Registry for Passports, Citizenship, Births, Deaths and Marriages, P. Bag 7734, Causeway, Harare.⁴¹¹

Different by region/area

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

Is there a separate fee for the issuance of a paper certificate?

Yes () No (X)

The website of the Registrar General does not state that a separate fee for the paper certificate is payable.

However, for duplicate full birth certificates the cost is USD 5 on a normal processing time, or USD 10 on an urgent processing basis.⁴¹²

⁴⁰⁷ Article 27, Convention on the Rights of the Child, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>; Article 6(2), African Charter on the Rights and Welfare of Children, available at http://www.achpr.org/files/instruments/child/achpr_instr_charterchild_eng.pdf.

⁴⁰⁸ Section 11(2)(a), Births and Deaths Registration Act.

⁴⁰⁹ Section 25(1), Births and Deaths Registration Act.

⁴¹⁰ Section 11(2)(b), Births and Deaths Registration Act.

⁴¹¹ US Department of State, Bureau of Consular Affairs, "Zimbabwe Reciprocity Schedule", available at <http://travel.state.gov/content/visas/english/fees/reciprocity-by-country/ZI.html#birthcertificates-0>.

⁴¹² Department of the Registrar General, "Birth", available at <http://www.rg.gov.zw/services/birth>. Please note that the website of the Department of the Registrar General suffers from regular

Different by region/area

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

Birth Registration Fee

Yes () No () Conditional (X)

If yes, amount in USD

See below.

If it's conditional, please provide reasons/cases for exemption.

For children under six years of age, it is free to register a birth on initial registration. For children of six years and over, the fee for initial birth registration is USD 2.

Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration')

Yes () No (X)

Please see above. For children under six years of age, it is free to register a birth on initial registration. For children of six years and over, the fee for initial birth registration is USD 2.

If yes, amount in USD:

Please see above.

Requirements for Birth Registration (tick what applies):

Identification of Child's Father (X) His Nationality (X)

Identification of Child's Mother (X) Her Nationality (X)

Marriage Certificate (X)

The requirements for birth registration differ according to where a child is born (in or outside a hospital or clinic), when the child is registered and whether the parents are legally married.⁴¹³ Please see Appendix 1 for the detailed requirements in each of these circumstances.⁴¹⁴

downtime and outages. The relevant pages cited in this questionnaire were available at the time of writing and on at least one subsequent occasion. Please also note that the fees specified on the website of the Department of the Registrar General are quoted in US Dollars.

⁴¹³ Please note that unregistered customary law marriages are not included in the definition of legally married, if lobola or bride price was paid for the mother and there is no documentation to prove it. See IRIN News, "Zimbabwe: Reform of birth registration law urged", available at <http://www.irinnews.org/report/50803/zimbabwe-reform-of-birth-registration-law-urged>; and the Marriage Act [Chapter 5:11], available at <http://unstats.un.org/unsd/vitalstatkb/Attachment187.aspx>.

Are Stateless / Refugee Births Registered?

Yes (X) No ()

The BDRA fails to provide for the registration of non-Zimbabwean children whose parents have not been granted citizenship.⁴¹⁵ However, the Department of the Registrar General does allow registration of children of foreign nationals, including refugees, provided that the requirements of registration as detailed in Appendix 1 are complied with (see requirements at Paragraph 4 of Appendix 1).⁴¹⁶

Are children of single parents registered?

Yes (X) No ()

Where one or both parents are deceased, relevant death certificates are required. The surviving spouse should also sign a declaration of paternity. Note also that single mothers have to register their children under their maiden name, if the biological father refuses to acknowledge paternity or his whereabouts are unknown.⁴¹⁷

Are all children born in the territory registered?

Yes () No (X)

The BDRA fails to specifically provide for registration of non-Zimbabwean children whose parents have not been granted citizenship.⁴¹⁸ However, the Department of the Registrar General allows registration of children of foreign nationals (see requirements at Paragraph 4 of Appendix 1).⁴¹⁹

If no, please provide list of those not registered

The child of non-Zimbabwean parents can have its birth registered, but that will not automatically grant a right to citizenship.

Other Requirements (if none, put n/a)

Please see Appendix 1 for other requirements.

Registration System Set-up

Electronic Submission (Unclear) Paper Submission (X) Both ()

⁴¹⁴ All requirements can be found at the website of the Department of the Registrar General, available at <http://www.rg.gov.zw/services/birth>.

⁴¹⁵ See the Births and Deaths Registration Act. Also see Justice for Children Trust, "Birth Registration of Children in Zimbabwe", October 2007, available at http://archive.kubatana.net/docs/chiyou/jct_birth_registration_0710.pdf.

⁴¹⁶ See the website of the Department of the Registrar General, op. cit.

⁴¹⁷ See the website of the Department of the Registrar General, op. cit.

⁴¹⁸ See the Births and Deaths Registration Act. Also see Justice for Children Trust (2007), op. cit.

⁴¹⁹ See the website of the Department of the Registrar General, op. cit.

Under section 4(1) of the BDRA, a registrar shall keep and maintain registers in the prescribed form in which he shall register the birth. There is however no expansion or defined term of what the “prescribed form” is.

During the course of this research, very little reference to computerised electronic registration has been found. The Zimbabwean Registrar General has stated that computerised birth registration in Zimbabwe started in 1997,⁴²⁰ and that the Department of the Registrar General produces computer generated identity numbers on birth certificates for children when they are registered. Nevertheless, the Registrar General did not refer to electronic submission of a birth registration application as such. Given that the Registrar General's speech was in 2005, it is possible that a computerised system has been developed further over the past ten years. However, no findings to this effect have been found thus far in the course of the research.

Part IV of the BDRA provides that the Minister may make regulations to give effect to the BDRA, including prescribing the form and manner of birth registration or the form of registers and other documents required by the BDRA.⁴²¹ This suggests that changes could be made in the future to allow for electronic submission, if such provisions do not already exist.

"26. (1) The Minister may by regulation prescribe all matters which by this Act are required or permitted to be prescribed or which, in the opinion of the Minister, are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Regulations made in terms of subsection (1) may provide for—

(a) the place or places at which shall be situated the offices of the Registrar-General and of any registrar and the hours during which notice of births, still-births and deaths may be given;

(b) the guidance of the registrar and any other person in the discharge of any duties or obligations imposed upon him by this Act;

(c) the form and manner of giving any notice or return required by this Act and the particulars to be furnished therein;

(d) the form and manner in which the registration of births, still-births and deaths shall be effected;

(e) the form of all registers and other documents required for the purposes of this Act;

(f) notices, certificates or other documents to form part of any register kept in terms of this Act;

(g) the places at which notice of births, still-births and deaths occurring on board ship while within the inland waters of Zimbabwe or on board an aircraft or train within Zimbabwe shall be given;

(h) the fees payable for any certificate issued or act performed in terms of this Act;

⁴²⁰ Registrar General of Zimbabwe, "Republic of Zimbabwe: Country Report presented to the Eastern and Southern Africa Conference on Universal Birth Registration", 26-30 September 2005, p.9, available at <http://unstats.un.org/unsd/vitalstatkb/Attachment190.aspx>.

⁴²¹ Section 26, Births and Deaths Registration Act.

(i) the time within which any thing [sic] required or authorized to be done in terms of this Act is to be done."

Location of registration facilities

There are significant numbers of registration offices in Zimbabwe, which include District Registries, Provincial Registries and sub-offices.

It is worth noting that in 2005 it was reported by the Zimbabwean Registrar General⁴²² that, although the Registrar General's Department had the desire to have all sub-offices operational, there were constraints in terms of the funding available to ensure that office and residential accommodation and the necessary furniture and equipment was in place to ensure that the sub-offices could run effectively. Ten years have passed since these comments were made, however, it could be that funding is still low at the sub-offices and, accordingly, it should be borne in mind that not all the registration facilities listed below may be fully operational.

Capital city Yes (X) No ()

There is a district registry office, six district registry sub-offices and two hospitals which have registration facilities in Harare. Full address and contact details can be found on the website of the Department of the Registrar General.⁴²³ In summary, registration facilities exist in the following locations in Harare:

- Market Square District Registry;
- Hatfield sub-office;
- Highfield sub-office;
- Kuwadzana sub-office;
- Mabvuku sub-office;
- Magaba sub-office;
- Mt Pleasant sub-office;
- Harare Central Hospital;
- Parirenyatwa Hospital.

Other cities Yes (X) No ()

- Bulawayo has seven district offices;⁴²⁴
- Mutare has four registry offices;⁴²⁵
- Gweru has one provincial registry, one district registry and two sub-offices.⁴²⁶

⁴²² Registrar General (2005), op. cit. paragraphs 3.3 and 3.5.

⁴²³ Department of the Registrar General, "Offices: Harare", available at <http://www.rg.gov.zw/offices/harare>.

⁴²⁴ Department of the Registrar General, "Offices: Bulawayo", available at <http://www.rg.gov.zw/offices/bulawayo>.

⁴²⁵ Department of the Registrar General, "Offices: Manicaland: Mutare", available at <http://www.rg.gov.zw/offices/manicaland/mutare>.

Villages Yes (X) No ()

Zimbabwe is divided into ten administrative provinces (including the two cities of Harare and Bulawayo) and 59 districts. The Registrar General has offices in all the administrative provinces and districts and, according to the Department of the Registrar General, a number of sub-offices and offices at local hospitals are located in smaller towns.

Other _____

Please see Appendix 2 of this report for a table containing the towns and districts in which the Department of the Registrar General reports there to be registration facilities. The table has been organised by province and full address details of the registration facility can be found by following the links included within the table.

Birth Registration is required for:

Please note that the answer to many of the following questions is that a birth certificate is not required expressly by Zimbabwean law. This is because the key factor in Zimbabwe with regard to these matters is proof of "citizenship", which can be acquired by birth, descent or registration. However, in practice, without a birth certificate, proof of citizenship (and at the age of 16 applying for and being issued a national identity card) is almost impossible to achieve.⁴²⁷

Access to education

Yes (X) No () Law *No specific law. See explanation below.*

Section 75(1) of the Constitution⁴²⁸ enshrines the fundamental right of all children in Zimbabwe to a state funded, basic education and section 4 of the Zimbabwe Education Act [Chapter 25:04]⁴²⁹ states that all children in Zimbabwe have a right to a school education. None of the legislation in either the Education Act or the Zimbabwe School Examinations Acts 1994 and 2001⁴³⁰ lays down any requirement for a birth certificate in order to receive an education. However, it has been reported that some schools require children to produce birth certificates for sitting examinations⁴³¹ and, in practice,

⁴²⁶ Department of the Registrar General, "Offices: Midlands: Gweru", available at <http://www.rg.gov.zw/offices/midlands/gweru>.

⁴²⁷ Registrar General (2005), op. cit. paragraph 1.1.

⁴²⁸ Section 75(1), Constitution of Zimbabwe.

⁴²⁹ Section 4, Zimbabwe Education Act 2004 [Chapter 25:04], available at http://www.parlzim.gov.zw/attachment/article/112/education_act_25_04.pdf.

⁴³⁰ Zimbabwe School Examinations Council Act [Chapter 25:18], available at: http://www.parlzim.gov.zw/attachments/article/112/ZIMBABWE_SCHOOL_EXAMINATIONS_COUNCIL_ACT_25_18.pdf. Please note that the www.parlzim.gov.zw website suffers from regular downtime and outages. Therefore, it has not been possible to verify the exact content and references for these acts.

⁴³¹ The Zimbabwean, "Children struggle to get birth certificates", available at <http://www.thezimbabwean.co/news/zimbabwe-news/60390/children-struggle-to-get-birth.html>.

certain funding, such as benefits under the Basic Education Assistance Module ("**BEAM**"), is also not available without a birth certificate.⁴³²

In contradiction of section 75(1) of the Constitution, section 6 of the Education Act⁴³³ enables the Education Minister to charge fees for the provision of education. This is despite the Constitution stating that it is supreme and that any law, practice, custom or conduct which is inconsistent with it shall be invalid to the extent of the inconsistency.⁴³⁴ These charges and other school levies are beyond the means of most Zimbabweans leading to a very high school dropout rate and severely restricting access to tertiary education in particular.

Obtaining a primary school diploma

Yes (X) No () Law *No specific law. See explanation below.*

The Zimbabwe Junior Certificate ("**ZJC**") was discontinued in 1999. In 2015 the Zimbabwe School Examinations Council ("**Zimsec**") announced that there was no proposal to re-introduce the ZJC.⁴³⁵ Despite there being no legal requirement for a birth certificate, Zimsec requires a birth certificate to enrol for Grade One of school and so a birth certificate is therefore required for all practical purposes.⁴³⁶

Obtaining a secondary school diploma

Yes (X) No () Law *No specific law. See explanation below.*

As indicated above, there is no specific law that requires a birth certificate to sit school examinations. However, section 35(d) of the Zimbabwe School Examinations Council Act [Chapter 25:18]⁴³⁷ makes it an offence to "*sit or offer of attempt to present himself at an examination with the intention of impersonating another person*". On this basis, Zimsec requires candidates to produce a birth certificate to sit national examinations in order to prevent identity fraud.⁴³⁸ This results in many children

⁴³² Voice of America Zimbabwe, "Senior Citizens Failing to Obtain Birth Certificates for Orphans", available at <http://www.voazimbabwe.com/content/zimbabwe-elderly-failing-to-obtain-birth-certificates-for-orphans/2745642.html>.

⁴³³ Section 6, Education Act.

⁴³⁴ Section 2, Constitution of Zimbabwe.

⁴³⁵ Bulawayo 24, "ZJC not re-introduced - minister Mavima", available at: <http://www.bulawayo24.com/index-id-news-sc-education-byo-66703.html>.

⁴³⁶ Research and Advocacy Unit, "Access to Identity and Citizenship in Zimbabwe", December 2008, available at http://www.archive.kubatana.net/html/archive/demgg/081220rau.asp?sector=CIT&year=2008&range_start=1

⁴³⁷ Section 35(d), Zimbabwe School Examinations Council Act [Chapter 25:18], available at http://www.parlzim.gov.zw/attachments/article/112/ZIMBABWE_SCHOOL_EXAMINATIONS_COUNCIL_ACT_25_18.pdf.

⁴³⁸ The Zimbabwean (2008), op. cit.; also see UNICEF, "UNHCR's help for displaced Zimbabweans produces tangible results", 17 February 2010, available at <http://www.unhcr.org/4b7c17dc6.html>.

being unable to sit these exams. Individual schools and colleges also require students registering at the school for the first time to come with a parent or guardian and to produce their birth certificate.⁴³⁹

Access to health (emergency services only)

Yes () No (X) Law _____

Section 76(3) of the Constitution states that no person can be refused emergency treatment at any healthcare institution.⁴⁴⁰

In reality, access to publicly funded emergency medical services is dependent on the ability to pay. See the reference to tariffs in relation to access to health services below.

Access to health (primary health services only)

Yes () No (X) Law _____

Laws in Zimbabwe do not make any clear distinction between primary and other healthcare services.

Access to health (all services)

Yes () No (X) Law _____

Section 76(1) of the Constitution states that every citizen and permanent resident of Zimbabwe has a right to access basic healthcare services, including reproductive healthcare services. Section 76(2) of the Constitution enshrines a right to basic healthcare services for chronic illness.⁴⁴¹ No section of either the Medical Services Act 1998⁴⁴² or the Public Health Acts 1924-1978⁴⁴³ refers to any requirement for a birth certificate to access healthcare.

The Medical Services Act 1998 came into force in 2001 and enabled the Minister for Health and Child Welfare to impose set charges for the state provision of healthcare services. This has put healthcare services beyond the reach of many Zimbabweans whether they have a birth certificate or not. Despite the introduction of the 2009-2013 Healthcare Strategy,⁴⁴⁴ which was intended to provide the guidelines and structure to deliver free healthcare services to pregnant and lactating mothers, the under-fives and the over 60s as a minimum, these services are still not free of charge. On 23 May 2014 new tariffs

⁴³⁹ Amizdam Consultancy and Management Training Institute, "Amizdam High School", available at http://amizdamtraining.ac.zw/index.php?option=com_content&view=article&id=59&Itemid=64.

⁴⁴⁰ Section 76(3), Constitution of Zimbabwe.

⁴⁴¹ Sections 76(1) and 76(2), Constitution of Zimbabwe.

⁴⁴² Medical Services Act 1998 [Chapter 15:13], available at http://www.parlzim.gov.zw/attachments/article/101/MEDICAL_SERVICES_ACT_15_13.pdf.

⁴⁴³ Public Health Acts 1924 - 1978 [Chapter 15:09], available at http://www.parlzim.gov.zw/attachments/article/101/PUBLIC_HEALTH_ACT_15_09.pdf.

⁴⁴⁴ The National Health Strategy for Zimbabwe 2009 - 2013, available at <http://apps.who.int/medicinedocs/documents/s17996en/s17996en.pdf>.

were set by the Minister for Health and Child Welfare by general notice 159/2014.⁴⁴⁵ This notice raised basic consultation fees from \$20 to \$35.

Access to social security programmes / cash benefits

Yes (X) No () Programme name *See below.* Law *No specific law. See explanation below.*

Section 30 of the Constitution provides that the State should take all practical measures, within the resources available to it, to provide social security and social care to those in need.⁴⁴⁶ The National Pension Fund (“**NPF**”) and the Workers Compensation Insurance Fund (“**WCIF**”) are both administered by the National Social Security Authority of Zimbabwe (“**NSSA**”). NSSA is a statutory body and was established by the National Social Security Authority Act 1989.⁴⁴⁷ In addition the Social Welfare Assistance Act 1998 states that the Director of Social Welfare may, on application in the prescribed form, provide social welfare assistance to any destitute or indigent person over the age of 60, or who is physically or mentally handicapped, or who is suffering long term illness, or who is a dependent of any of the above.⁴⁴⁸ Social welfare generally is delivered through the Department of Social Welfare.

None of the above legislation indicates that a birth certificate is necessary to apply for or receive assistance pursuant to any of these programmes. However, we have been unable to access a copy of SI 393 of 1993 which is the statutory instrument pursuant to which the NPF is administered.

The NPF is a compulsory scheme based on a 50:50 contribution from employers and employees. All workers between the ages of 16 and 65 in permanent, seasonal, contract or temporary employment are required by law to join and contribute to the scheme (excluding domestic workers and workers in the “informal” sector). The contribution rate for both employees and employers is currently set at 3.5% on the first \$700 of monthly earnings.

The requirements for both employers and employees relating to registration for, and ongoing obligations for, the NPF and WCIF are set out in the NSSA Employers Guide (“**Employers Guide**”).⁴⁴⁹ The Employers Guide includes the forms required to be completed to register for and claim under both the NPF and the WCIF.

⁴⁴⁵ The Chronicle, “Medical tariffs gazetted”, 24 May 2014, available at <http://www.chronicle.co.zw/new-medical-tariffs-gazetted/>.

⁴⁴⁶ Section 30, Constitution of Zimbabwe

⁴⁴⁷ National Social Security Authority Act 1991 [Chapter 17:04], available at http://www.parlzim.gov.zw/attachments/article/103/NATIONAL_SOCIAL_SECURITY_AUTHORITY_ACT_17_04.pdf.

⁴⁴⁸ Section 6, Social Welfare Assistance Act 1988 [Chapter 17:06], available at http://www.parlzim.gov.zw/attachments/article/103/SOCIAL_WELFARE_ASSISTANCE_ACT_17_06.pdf.

⁴⁴⁹ The NSSA Employers Guide can be downloaded from the NSSA website, available at <http://www.nssa.org.zw/index.php/template-features/national-pension-scheme-nps>.

The registration forms for both schemes and the claim form for the NPF, which are all set out in the Employers Guide,⁴⁵⁰ all require proof of identity via either a national identification number, passport, driving licence (all of which require that an applicant presents their birth certificate) or the birth certificate itself.

Nationality

Yes (X) No () Law *No specific law. See explanation below.*

The Constitution at Chapters 3 and 4 sets out the basis of Zimbabwean nationality as described earlier in this questionnaire. The Citizenship of Zimbabwe Act 1984 (amended 1990, 2001 and 2003)⁴⁵¹ ("**Citizenship Act**") makes further provision for the acquisition of citizenship by registration and for the prohibition of dual citizenship, and the deprivation, renunciation and restoration of citizenship. An individual may only apply to the Minister for citizenship by registration "*in the prescribed form and manner*". We have been unable to find a copy of the form to apply for citizenship, but the website for the Department of the Registrar General makes clear that for citizenship at the age of 16 to be granted a birth certificate is required.⁴⁵²

Part IV of the Citizenship Act⁴⁵³ makes clear that no Zimbabwean national of full age and sound mind may hold the nationality of another country. Guidance on the website of the Department of the Registrar General⁴⁵⁴ states:

"No adult citizen of Zimbabwe shall be entitled to be a citizen of foreign country. However, minors are allowed to enjoy dual citizenship until they turn 18 but before the 19th birthday they have to make a choice as to their preference of citizenship."

Identification card

Yes (X) No () Law *Section 6, National Registration Act.*

The National Registration Act 1976 (last updated 2001)⁴⁵⁵ makes it a duty to register as a resident in Zimbabwe and states at section 6 that an applicant must produce information on, inter alia, citizenship status and birth. The website of the Department of the Registrar General⁴⁵⁶ makes it clear that for registration to occur and a national identity card to be issued, a long form birth certificate is required.

⁴⁵⁰ See Appendix 4 of the NSSA Employers Guide.

⁴⁵¹ Citizenship of Zimbabwe Act [Chapter 4:01], available at <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=4a1ea4462&page=search>.

⁴⁵² Department of the Registrar General, "Services: National", available at <http://www.rg.gov.zw/services/national>.

⁴⁵³ Part IV, Citizenship of Zimbabwe Act.

⁴⁵⁴ Department of the Registrar General, "Zimbabwe Citizenship", available at <http://www.rg.gov.zw/services/citizens>.

⁴⁵⁵ National Registration Act, [Chapter 10:17], available at http://www.parlzim.gov.zw/attachments/article/96/NATIONAL_REGISTRATION-ACT_10_17.pdf.

⁴⁵⁶ See the website of the Department of the Registrar General, op.cit.

Passport

Yes (X) No () Law Section 7, *National Registration Act*.

Section 7 of the National Registration Act 1976 states that the Minister for Home Affairs can require proof of identity in such form as he sees fit.⁴⁵⁷ The current website of the Registrar General (see above) clearly states that a long form birth certificate and national identity card will be required.⁴⁵⁸

Other (Please specify e.g. enrolment for social protection programme/ food bank)

Opening a personal bank account in Zimbabwe requires proof of identification and, as a minimum, that requires either a national identification card or a passport to be produced. For an example, see the application requirements for opening a savings account at Standard Chartered Bank in Harare.⁴⁵⁹

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- Constitution of Zimbabwe Amendment (No. 20) Act 2013, available at <http://www.zhrc.org.zw/index.php/zhrc-documents/legal-framework/1-constitution-of-zimbabwe-amendment-no-20-act-2013/file>
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- Public Health Acts 1924-1978 [Chapter 15:09], available at

⁴⁵⁷ Section 7, *National Registration Act*.

⁴⁵⁸ Department of the Registrar General, "Passport", available at <http://www.rg.gov.zw/services/passport>.

⁴⁵⁹ Standard Chartered Bank, "Savings Account", available at <https://www.sc.com/zw/personal-banking/deposits/savings-account/en/>.

http://www.parlzim.gov.zw/attachments/article/101/PUBLIC_HEALTH_ACT_15_09.pdf

- Social Welfare Assistance Act 1988 [Chapter 17:06], available at http://www.parlzim.gov.zw/attachments/article/103/SOCIAL_WELFARE_ASSISTANCE_ACT_17_06.pdf
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International Treaties

- African Charter on the Rights and Welfare of Children, available at http://www.achpr.org/files/instruments/child/achpr_instr_charterchild_eng.pdf
(see also the ratification table available at <http://www.achpr.org/instruments/child/ratification/>)
- Convention on the Rights of the Child, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>
(see also the ratification table available at https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=iv-11&chapter=4&lang=en)

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- Voice of America Zimbabwe, "Senior Citizens Failing to Obtain Birth Certificates for Orphans", available at
<http://www.voazimbabwe.com/content/zimbabwe-elderly-failing-to-obtain-birth-certificates-for-orphans/2745642.html>

Appendix 1 - Requirements for Birth Registration

1. INITIAL BIRTH REGISTRATION

Children born in hospital/clinic

1.1. Where parents are legally married:

1.1.1. Mother's and father's national identity cards.

1.1.2. A birth confirmation record from the hospital or clinic.

1.1.3. A marriage certificate.

1.1.4. Only one of the parents can register the child but must bring the national identity card for the other spouse.

1.1.5. Where one or both parents are deceased relevant death certificates are required. Surviving spouse or relatives can register the child as the case may be.

1.2. Where parents are not legally married:

1.2.1. Mother's and father's identity cards.

1.2.2. A birth confirmation record from hospital or clinic.

1.2.3. Both parents must be present to sign a declaration of paternity.

1.2.4. Where one or both parents are deceased relevant death certificates are required. Surviving spouse or relatives can register the child, as the case may be. The surviving spouse should sign the declaration of paternity.

1.2.5. Single mothers are free to register their children under their maiden name, if the biological father refuses to acknowledge paternity or his whereabouts are unknown.

Children born out of hospital

1.3. Where parents are legally married:

1.3.1. Mother's and father's national identity cards.

1.3.2. A marriage certificate.

1.3.3. A baptismal certificate or one witness with a national identity card, preferably a midwife. In the case of a child born on a farm, a witness or a letter from the farmer, confirming the birth of that child at the respective farm.

1.3.4. Either parent can register the child but must bring national identity card for the other spouse.

1.3.5. Where one or both parents are deceased relevant death certificates are required. Surviving spouse or relatives can register the child, as the case may be.

1.4. Where the parents are not legally married:

1.4.1. Mother's and father's national identity cards.

1.4.2. A baptismal certificate or one witness with a national identity card, preferably a midwife. In the case of a child born on a farm, a witness or a letter (declaration form supplied by the office) from the farmer.

1.4.3. Both parents must be present to sign a declaration of paternity.

1.4.4. Where one or both parents are deceased relevant death certificates are required. Surviving spouse or relatives can register the child as the case may be. The surviving spouse should sign the declaration of paternity.

1.4.5. Single mothers are free to register their children under their maiden name, if the biological father refuses to acknowledge paternity or his whereabouts are unknown.

2. LATE BIRTH REGISTRATION (children registered after one year from the date of birth)

Children born in hospital/clinic

2.1. Where parents are legally married:

2.1.1. Mother's and father's national identity cards.

2.1.2. A marriage certificate.

2.1.3. A birth confirmation record from the hospital or clinic.

2.1.4. Either parent can register the child but must bring the national identity of the other spouse.

2.1.5. Children who are sixteen years of age and above must be present at the time of registration and must produce their identity cards if he/she was issued with one.

2.2. Where parents are not legally married:

2.2.1. Mother's and father's national identity cards.

2.2.2. A birth confirmation record from the hospital or clinic.

2.2.3. Both parents must be present to sign a declaration of paternity.

2.2.4. Where one or both parents are deceased relevant death certificates are required. Surviving spouse or relatives can register the child, as the case may be.

2.2.5. Single mothers are free to register their children under their maiden name, if the biological father refuses to acknowledge paternity or his whereabouts are unknown.

2.2.6. Children who are sixteen years and above must be present at the time of registration and must produce their identity cards.

Children born out of hospital

2.3. Where parents are legally married:

2.3.1. Mother's and father's national identity cards.

2.3.2. A marriage certificate.

2.3.3. A baptismal certificate or one witness, if the child is under sixteen years of age and two witnesses if the child is sixteen years and above. In the case of a child born on a farm, a witness/witnesses or letter (Declaration form supplied by office) from the farmer.

2.3.4. Where one or both parents are deceased relevant death certificates are required.

2.3.5. Surviving spouse or relatives can register the child as the case may be. The surviving spouse should sign the declaration of paternity.

2.4. Where parents are not legally married:

2.4.1. Mother's and father's national identity cards.

2.4.2. A baptismal certificate.

2.4.3. One witness, if the child is under sixteen years of age and two witnesses if the child is sixteen years and above.

2.4.4. Both parents must be present to sign a declaration of paternity.

2.4.5. Where one or both parents are deceased relevant death certificates are required. Surviving spouse or relatives can register the child as the case may be.

2.4.6. Single mothers are free to register their children under their maiden name, if the biological father refuses to acknowledge paternity or his whereabouts are unknown.

2.4.7. Children who are sixteen years and above must be present at the time of registration and must produce their identity cards if he/she was issued with one.

3. SELF-REGISTRATION

Self-registrations are exceptional cases and are determined by the District Registrar and confirmed by the Provincial Registrar.

Applicants are required to produce the following documents:

3.1. A National Identity card of the applicant.

3.2. A baptismal certificate, if the child was baptized (within six months of birth).

3.3. National Identity card of a near relative.

3.4. A letter from the employer, if employed.

3.5. In each case, citizenship status must be established beyond doubt.

4. NON-CITIZEN BIRTH REGISTRATIONS

These are birth certificates issued to children of foreign Nationals (visitors and expatriates).

Requirements:

4.1. Foreign passports for both parents.

4.2. Marriage certificate (if not married both parents must acknowledge paternity). If the marriage certificate is in foreign language, recognised authorities must translate it.

Appendix 2 - Towns and Districts with Registration Facilities

PR = Provincial Registry

Province	District/ Town	No. District Registr ies	No. Sub- office s/PR	Link for further information
Manicaland	Chimanimani	1	3	http://www.rg.gov.zw/offices/manicaland/chimanimani
	Buhera	1	3	http://www.rg.gov.zw/offices/manicaland/buhera
	Makoni	1	2	http://www.rg.gov.zw/offices/manicaland/makoni
	Mutasa	1	1	http://www.rg.gov.zw/offices/manicaland/mutasa
Mashonaland Central	Bindura	1	3 1 PR	http://www.rg.gov.zw/offices/mashonaland-central/bindura
	Mbire	1	1	http://www.rg.gov.zw/offices/mashonaland-central/mbire
	Mt Darwin	1	4	http://www.rg.gov.zw/offices/mashonaland-central/mt-darwin
	Rushinga	1	3	http://www.rg.gov.zw/offices/mashonaland-central/rushinga
Mashonaland East	Marondera	1	3 1 PR	http://www.rg.gov.zw/offices/mashonaland-east/marondera
	Chikomba	1	3	http://www.rg.gov.zw/offices/mashonaland-east/chikomba
	Goromonzi	1	3	http://www.rg.gov.zw/offices/mashonaland-east/goromonzi
	Hwendza	1	2	http://www.rg.gov.zw/offices/mashonaland-

				east/hwedza
	Mudzi	1	3	http://www.rg.gov.zw/offices/mashonaland-east/mudzi
	Mukoto	1	3	http://www.rg.gov.zw/offices/mashonaland-east/mutoko
	Seke	1	4	http://www.rg.gov.zw/offices/mashonaland-east/seke
	UMP	1	2	http://www.rg.gov.zw/offices/mashonaland-east/ump
Mashonaland West	Chinhoyi	0	1 PR	http://www.rg.gov.zw/offices/mashonaland-east/chinhoyi
	Chegutu	1	2	http://www.rg.gov.zw/offices/mashonaland-west/chegutu
	Hurungwe	1	3	http://www.rg.gov.zw/offices/mashonaland-west/hurungwe
	Kariba	1	3	http://www.rg.gov.zw/offices/mashonaland-west/kariba
	Makonde	1	2	http://www.rg.gov.zw/offices/mashonaland-west/makonde
	Sanyati	1	2	http://www.rg.gov.zw/offices/mashonaland-west/sanyati
	Mhondoro-Ngezi	1		http://www.rg.gov.zw/offices/mashonaland-west/mhondoro-ngezi
	Zvimba	1	2	http://www.rg.gov.zw/offices/mashonaland-west/zvimba
Masvingo	Masvingo	1	4 1 PR	http://www.rg.gov.zw/offices/masvingo/masvingo
	Bkita	1	2	http://www.rg.gov.zw/offices/masvingo/bikita

	Chibi	1	3	http://www.rg.gov.zw/offices/masvingo/chibi
	Chiredzi	1	3	http://www.rg.gov.zw/offices/masvingo/chiredzi
	Mweiezi	1	3	http://www.rg.gov.zw/offices/masvingo/mwenezi
	Zaka	1	3	http://www.rg.gov.zw/offices/masvingo/zaka
Matabeleland North	Nkayi	1	3	http://www.rg.gov.zw/offices/matabeleland-north/nkayi
	Binga	1	5	http://www.rg.gov.zw/offices/matabeleland-north/binga
	Tsholotsho	1	1	http://www.rg.gov.zw/offices/matabeleland-north/tsholotsho
	Hwange	1	4	http://www.rg.gov.zw/offices/matabeleland-north/hwange
	Bubi	1	2	http://www.rg.gov.zw/offices/matabeleland-north/bubi
	Lupane	1	2	http://www.rg.gov.zw/offices/matabeleland-north/lupane
	Umpgunza	1	2	http://www.rg.gov.zw/offices/matabeleland-north/umguza
Matabeleland South Province	Gwanda	1	5 1 PR	http://www.rg.gov.zw/offices/matabeleland-south/gwanda
	Matobo	1	4	http://www.rg.gov.zw/offices/matabeleland-south/matobo
	Beitbridge	1	4	http://www.rg.gov.zw/offices/matabeleland-south/beitbridge
	Bulima Mangwe	1	3	http://www.rg.gov.zw/offices/matabeleland-south/plumtree
	Umzingware	1	3	http://www.rg.gov.zw/offices/matabeleland-

				south/umzingwane
	Insiza	1	3	http://www.rg.gov.zw/offices/matabeleland-south/insiza
Midlands	Chirumanzi	1	3	http://www.rg.gov.zw/offices/midlands/chirumanzu
	Gokwe North	1	4	http://www.rg.gov.zw/offices/midlands/gokwe-north
	Gokwe South	1	4	http://www.rg.gov.zw/offices/midlands/gokwe-south
	Mberengwa	1	3	http://www.rg.gov.zw/offices/midlands/mberengwa
	Shurungwi	1	3	http://www.rg.gov.zw/offices/midlands/shurugwi
	Zvishavane	1	3	http://www.rg.gov.zw/offices/midlands/zvishavane

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BIRTH REGISTRATION - PHASE TWO

A Comparative Report Prepared for UNICEF

May 2016



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PREFACE

Please note the following in relation to the research questionnaires:

1. These research reports form the second phase of a research project on birth registration law prepared by DLA Piper for UNICEF. Phase One was completed in November 2015.
2. The purpose of this report is to compare the legal frameworks governing birth registration in eight jurisdictions. Birth registration is the process by which a child's birth is recorded in the civil register by the applicable government authority. It provides the first legal recognition of the child.
3. The questionnaires have been prepared by lawyers from the UK performing desk based research. We have endeavoured to make the questionnaires as comprehensive as possible, but they should not be regarded as exhaustive.
4. Every attempt has been made to access English versions of all relevant and up to date legislation. However, given the nature of desk based research, some legislation was not available in English (or at all) and some may be outdated, although it was not always clear when this was the case. Where possible we have attempted to provide hyperlink references to online versions of legislation or provided scanned copies as an appendix to the questionnaire.
5. For many jurisdictions, reports and resources may be several years old. Due to a lack of up to date resources, in some cases older resources have been cited and relied upon as representing current practice. We would recommend referring to footnotes before relying on information.
6. The lawyers preparing these questionnaires are not experts on civil registration law or on the law of the jurisdictions which they researched, but have applied their general research skills to prepare answers to the questions. Words such as 'child', 'registration', and 'certificate' may not always be used with the strict definition ascribed to them by that jurisdiction's legislation.
7. Eight groups of lawyers from different jurisdictions have carried out the research presented in these questionnaires and may have taken slightly different approaches to answering the questions. The questions requiring an answer of 'Yes' or 'No' are there to provide an easy-to-read overview of each jurisdiction and cannot capture all the relevant information and qualifications. In light of this, we recommend that the answer to each question is read in full and in the context of the questionnaire as a whole.
8. The final section of the questionnaire deals with the requirement for birth registration in order to access services. Where the answer to a particular question is 'Yes', we have made every attempt to provide the relevant legislative provision or have referred to the fuller narrative explanation below. Where the answer is 'No', we have either provided the legislative provision which explicitly states there is no need for birth registration (if relevant) or left the space blank. Where the answer is 'Unclear', we have left the space blank.
9. The scope of the questionnaires is limited to the domestic legal framework in relation to birth registration for each of the relevant jurisdictions. Some of the questionnaires may refer to specific international treaty obligations relating to child rights or birth registration in order to provide a fuller picture of the situation within that jurisdiction. However, the absence of a reference to an international treaty does not imply that a country is not a party to it or that the treaty itself is not relevant to the issue of birth registration as a matter of international law.

10. The questionnaires focus on the registration of births occurring within the relevant jurisdiction. A number of questionnaires also refer to the registration of children born outside the jurisdiction to citizens of that country, i.e. consular birth registration, but this information has not been included in every questionnaire.
11. The section "*Law and other relevant instruments*" has largely been left blank as it was often difficult to find specific legislation stating which official authority in charge of registering a child's birth or where that civil registry is located in the government.
12. The legal definitions of citizenship and nationality may not be identical in each jurisdiction, and there are some jurisdictions which do not distinguish clearly between the two concepts. In a number of questionnaires we have referred to both citizenship and nationality in order to provide a more comprehensive picture of the legal framework in relation to birth registration. Where possible, we have tried to use the particular terminology that appears in the relevant jurisdiction's legislation and ensured that the information referring to either concept is consistent. This may lead to inconsistencies in the answers given to the question "*Is birth registration required for nationality?*".
13. We would recommend that more exhaustive research is undertaken to verify particular information before reliance is placed on particular content for the purposes of publication or disclosure to third parties. This report may not be relied upon by any party other than UNICEF.
14. Where fees or fines have been quoted in US Dollars, the conversion was approximate and made at the time of writing the questionnaires using a commercial exchange rate, available at www.xe.com.

AFGHANISTAN

Key points

- Birth registration is compulsory, though in practice the majority of births are not registered.
- Birth registration is free of charge.
- The Government of Afghanistan has announced that it intends on "revitalising" the birth registration process so that a *"birth certificate will be a requirement to accessing basic services such as education, immunisation and health"*.¹ The timetabling for this has not been announced.
- It is noteworthy that the Afghan Civil Code (Article 46) requires the *"civil status of a person reaching the age of 18"* to be registered by the State, but there is no parallel requirement for new born babies.²

Name of official authority in charge of registering a child's birth:

Civil Registration Department, Ministry of Interior Affairs.

Where is the civil registry located in the government?

- () Ministry of Justice
- (X) Ministry of Interior
- () Electoral Agency
- () Independent Entity
- () Other

Law and other relevant instruments:

Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?

The country applies both *jus sanguinis* and *jus soli*. The relevant legislation is the Law on Citizenship of the Islamic Emirate of Afghanistan.³

Article 12 of that statute provides: *"If a child is found in the territory of the IEA [the Islamic Emirate of Afghanistan] and his/her parents' documents proving their citizenship are not available, the child would be considered citizen of the IEA"*.

¹ Website of the Ministry of Interior Affairs, available at <http://moi.gov.af/en/page/7180>

² Civil Law of The Republic of Afghanistan 1997, available at <http://www.asianlii.org/af/legis/laws/clotroacogn353p1977010513551015a650/>

³ Law on Citizenship of the Islamic Emirate of Afghanistan, 24 June 2000, available at <http://www.refworld.org/docid/404c988d4.html>

Article 9(2) provides: "A person born from parents holding citizenship of the IEA abroad or within the territory of the IEA is considered to be a citizen of the IEA".

Is there any legal obligation to register children?

Yes (X) No ()

If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.

Article 31 of the Afghan Civil Registration Law states that "birth of child shall be reported by child's legal guardian to nearest civil registration office within six months after birth".⁴

Does the child need to be registered within a certain amount of time from birth?

Yes (X) No ()

If yes, by when?

Within six months from the date of birth.⁵

Is a paper certificate issued as a result of the registration?

Yes (X) No ()

According to the Ministry of Interior Affairs Website, the birth certificate is short form and card sized.⁶

Different by region/area?

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

Is there a separate fee for the issuance of a paper certificate?

Yes () No (X)

Different by region/area

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

⁴ Website of the Ministry of Interior Affairs, available at <http://moi.gov.af/en/page/7180>

⁵ Website of the Ministry of Interior Affairs, available at <http://moi.gov.af/en/page/7180>

⁶ Website of the Ministry of Interior Affairs, available at <http://moi.gov.af/en/page/7180>

Birth Registration Fee

Yes () No (X) Conditional ()

If yes, amount in USD:

Not applicable.

If it's conditional, please provide reasons/cases for exemption.

Not applicable.

Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration')

Yes () No (X)

If yes, amount in USD:

Not applicable.

Requirements for Birth Registration (tick what applies):

Identification of Child's Father () His Nationality ()

Identification of Child's Mother () Her Nationality ()

Marital Status ()

It has not been possible to determine whether the nationality of the parents or their marital status is required to register a birth. However, following a review of the legislation which remains silent on the point, it appears unlikely that either information is required.

By way of comparison, if applying for registration as an Afghan citizen when residing in Canada, the father's, grandfather's and mother's name is a requirement, but nationality is not required.⁷ If applying for citizenship when living in Los Angeles, the names of the father and grandfather are required only⁸ whereas if the individual is based in Washington DC, the names of both the father's and mother's names are required, but no further details in relation to either are needed.⁹

⁷ Website of the Foreign Ministry Of The Islamic Republic Of Afghanistan, "Birth Certificate Request Forms for Ottawa and Vancouver", available at <http://www.afghanemb-canada.net/consular-afghanistan-embassy-canada-ottawa/english/pdf/Birth-Certificates/BirthCertificateApplicationFormEnglish.pdf> and <http://afghanconsulatevancouver.org/files/BIRTH%20CERTIFICATE%20%20REQUEST%20FORM.pdf>

⁸ Website of the Islamic Republic of Afghanistan Ministry of Foreign Affairs Consulate General Of Afghanistan, "Los Angeles", available at http://www.afghanconsulategeneral.org/consular/documents/birth_certificateFORM_002.pdf

⁹ Website of the Embassy of Afghanistan Washington DC, Application for birth certificate, available at http://www.embassyofafghanistan.org/sites/default/files/forms/form_bc.pdf

Accordingly, it appears that there is no standardised approach with regard to the information required to register a birth in Afghanistan. It is acknowledged in Afghan citizenship law that children of unknown parentage in Afghanistan are regarded as citizens, so it is likely that none of the above information is strictly required to register a birth.

Are Stateless / Refugee Births Registered?

Yes (X) No ()

Children born in refugee camps are eligible to be registered.¹⁰

Are children of single parents registered?

Yes (X) No ()

Every child born in Afghanistan has the right to be registered at birth and to have a birth certificate.¹¹ Registration of a child in Afghanistan is therefore not contingent on its parenthood.

Are all children born in the territory registered?

Yes (X) No ()

All children born in the territory are entitled to be registered, but in practice there is still a very high proportion of children that remain unregistered. According to UNICEF-funded analysis of birth registration released in February 2005, only 6.2% of children under the age of five were actually registered in Afghanistan.¹²

It is possible for all children to have their births registered and according to Afghanistan Civil Registration Law Article 31, parents or legal guardians are obliged to register their children at the nearest civil registration office within six months of birth.¹³ However, whilst every child has a right to be registered, in reality not all children benefit from a such a right. The Ministry of Interior Affairs stated that "*most new born children particularly girls still remain unregistered*"¹⁴ though they note that under a

¹⁰ UNHCR, "Birth certificate programme secures Afghans' identities", 6 February 2004, available at <http://www.unhcr.org/402395761.html>

¹¹ Website of the Ministry of Interior Affairs, "Basic Messages", available at <http://webcache.googleusercontent.com/search?q=cache:6FcDyWEcw-oJ:moi.gov.af/en/page/7180+&cd=1&hl=en&ct=clnk&gl=uk>

¹² UNICEF, "The 'Rights' Start to Life: A statistical analysis of birth registration", 2005, p.27, available at <http://www.unicef.org/publications/files/R55BirthReg10a.pdf>

¹³ Website of the Ministry of Interior Affairs, "Basic Messages", available at <http://webcache.googleusercontent.com/search?q=cache:6FcDyWEcw-oJ:moi.gov.af/en/page/7180+&cd=1&hl=en&ct=clnk&gl=uk>

¹⁴ Website of the Ministry of Interior Affairs, "Situation of Birth Registration in Afghanistan", available at <http://webcache.googleusercontent.com/search?q=cache:6FcDyWEcw-oJ:moi.gov.af/en/page/7180+&cd=1&hl=en&ct=clnk&gl=uk>

new system of registration between March 2010 and March 2011, 225,541 children were "registered and issued birth certificates".¹⁵

Notably, Article 2 of the Law on Citizenship of the Islamic Emirate of Afghanistan states "*Citizenship of the IEA is equal and similar for all the citizens*"¹⁶ whilst Article 6 of Chapter 1 of The Constitution of Afghanistan (1382) states that there is to be "*national unity and equality among all ethnic groups and tribes*"¹⁷ so there should be no discrimination in regards to registering births.

As far as it has been possible to determine, whilst all children have a right to be registered at birth, the legislation does not expressly demand that all births in the country are registered.

If no, please provide list of those not registered.

Not applicable.

Other Requirements (if none, put not applicable)

Not applicable.

Registration System Set-up (this may not be in the legal framework)

For those children born at hospitals and maternity wards it is the responsibility of that facility (and their Deputy Registrars) to register the birth, before the mother is discharged. Maternity ward staff are required to report on monthly registration data to the Vital Statistics Office.¹⁸

However, due to the high number of home births in Afghanistan, and "*to ensure greater coverage, the Ministry of Interior has appointed Assistant Registrars at community level to facilitate registration*". Those that can register births include community elders, village leaders, religious leaders in select

¹⁵ Website of the Ministry of Interior Affairs, "Situation of Birth Registration in Afghanistan", available at <http://webcache.googleusercontent.com/search?q=cache:6FcDyWEcw-oJ:moi.gov.af/en/page/7180+&cd=1&hl=en&ct=clnk&gl=uk>

¹⁶ International Business Publications, "Law on Citizenship of the Islamic Emirate of Afghanistan, from the Afghanistan Constitution and Citizenship Laws Handbook; Strategic Information and Basic Laws" (2013), p.123, available at <https://books.google.co.uk/books?id=FVGaAAAAQBAJ&pg=PA122&lpg=PA122&dq=Official+Gazette+of+the+Ministry+of+Justice+for+the+Republic+of+Afghanistan+dated+March+19,+1992&source=bl&ots=P0zHPKVc21&sig=r8slYiOcSw3sMIIDiBmzt2TbTU&hl=en&sa=X&ved=0ahUKewjkr5yXme3JAhXM1hoKHfLLAsUQ6AEIKTAB%20-%20v=onepage&q=Official%20Gazette%20of%20the%20Ministry%20of%20Justice%20for%20the%20Republic%20of%20Afghanistan%20dated%20March%2019%2C%201992&f=false#v=snippet&q=Official%20Gazette%20of%20the%20Ministry%20of%20Justice%20for%20the%20Republic%20of%20Afghanistan%20dated%20March%2019%2C%201992&f=false>

¹⁷ The Constitution of Afghanistan 1382, available at http://www.afghan-web.com/politics/current_constitution.html

¹⁸ Website of the Ministry of Interior Affairs, "What can you do?", available at <http://webcache.googleusercontent.com/search?q=cache:6FcDyWEcw-oJ:moi.gov.af/en/page/7180+&cd=1&hl=en&ct=clnk&gl=uk>

mosques and EPI (expanded program of immunisation) fixed centres in health facilities.¹⁹ These Assistant Registrars must also report on monthly registration data.²⁰

Upon registering the birth, the parent(s) receives a short-form, card-sized birth certificate which includes the following information:

- Name (last name and first name(s))
- Date of birth
- Certificate number
- Birthplace
- Gender
- Date of registration
- Registration number
- Date issued.²¹

Birth within Afghanistan does not automatically confer citizenship on children, with the exception of children of unknown or stateless parents²² who do receive such a right.

Additionally, the Research Directorate of the Immigration and Refugee Board of Canada in Ottawa quotes an official from the Embassy of the Republic of Afghanistan, as saying *"that if birth certificates are not obtained immediately after a child's birth, they are difficult to acquire later on"*.²³

Electronic Submission () Paper Submission (X) Both ()

It is not possible to determine a decisive answer to this question. However, owing to the nature of birth registration in the country, and the various locations in which it can be undertaken, it is highly likely that paper submission is the most common, if not only, method used due to the flexibility this provides. We have not seen any evidence that applications for registration can be submitted electronically.

A UNICEF report in 2007 stated that *"in post-conflict Afghanistan, paper copies of birth records are maintained by families and community representatives, while computerized records are centrally*

¹⁹ Website of the Ministry of Interior Affairs, "Q: If I want the child to get birth certificate where to get it from?", available at <http://webcache.googleusercontent.com/search?q=cache:6FcDyWEcw-oJ:moi.gov.af/en/page/7180+&cd=1&hl=en&ct=clnk&gl=uk>

²⁰ Website of the Ministry of Interior Affairs, "What can you do?", available at <http://webcache.googleusercontent.com/search?q=cache:6FcDyWEcw-oJ:moi.gov.af/en/page/7180+&cd=1&hl=en&ct=clnk&gl=uk>

²¹ Website of the Ministry of Interior Affairs, "What can you do?", available at <http://webcache.googleusercontent.com/search?q=cache:6FcDyWEcw-oJ:moi.gov.af/en/page/7180+&cd=1&hl=en&ct=clnk&gl=uk>

²² International Business Publications, "Law of Citizenship in Afghanistan - Basic Information on Afghanistan Citizenship Law, from the Afghanistan Constitution and Citizenship Laws Handbook; Strategic Information and Basic Laws" (2013), p.122

²³ RefWorld, "Afghanistan: Issuance of birth certificates and marriage certificates; types of documents required by the applicant in Afghanistan or in embassies to obtain official documents - Birth Certificates", available at <http://www.refworld.org/docid/47d6543c22.html>

stored".²⁴ Unfortunately, this does not clarify the position regarding submission of information for registration, but does clarify that records can be kept in both formats after registration.

Location of registration facilities (this may not be in the legal framework)

Capital city Yes (X) No ()

Other cities Yes (X) No ()

Villages Yes (X) No ()

Other _____

Births can be registered at Vital Statistics units at "*provincial, district and municipal ward levels*".²⁵

UNICEF has previously noted that provincial-level birth registration started in Kabul²⁶, although this was initially limited to a few maternity hospitals.²⁷ It has not been possible to find exact locations of registration facilities in the country.

Birth Registration is required for:

As mentioned above, the Government of Afghanistan has announced that there is an intention that birth registration will be a requirement to accessing basic services such as education, immunisation and health. At present, birth registration is not required to access these services. Citizens of Afghanistan currently primarily use the national identification card, the "*Tazkera*" (discussed further below), to establish their legal relationship to the state.²⁸ It is not necessary for an individual's birth to be registered for them to apply for a *Tazkera*.

Access to education

Yes () No () Unclear (X) Law _____

Article 3 of the Afghan Education Law provides that "*citizens of the Islamic Republic of Afghanistan have equal rights to education without any kind of discrimination*".²⁹ We have seen no evidence to

²⁴ UNICEF, "Innocenti Insight - Birth Registration And Armed Conflict", (2007), p 25, available at [http://www.unicef.org/protection/birth_registration_and_armed_conflict\(1\).pdf](http://www.unicef.org/protection/birth_registration_and_armed_conflict(1).pdf)

²⁵ Website of the Ministry of Interior Affairs, "Q: If I want the child to get birth certificate where to get it from?", available at <http://webcache.googleusercontent.com/search?q=cache:6FcDyWEcw-oJ:moi.gov.af/en/page/7180+&cd=1&hl=en&ct=clnk&gl=uk>

²⁶ UNICEF, "UNICEF External Situation Report Afghanistan 01 Apr - 31 May 2007 - Child Protection", available at <http://reliefweb.int/report/afghanistan/unicef-external-situation-report-afghanistan-01-apr-31-may-2007>

²⁷ UNICEF, "UNICEF External Situation Report Afghanistan 31 Jan - 31 Mar 2007 - Child Protection", available at <http://m.reliefweb.int/report/235748>

²⁸ UNHCR, "Frequently Asked Questions - National Identification Cards (Tazkeras)", available at <http://www.unhcr.org/4497b1c12.pdf>

²⁹ Education law, 31/4/1387, Official Gazette No. 955, available at http://planipolis.iiep.unesco.org/upload/Afghanistan/Afghanistan_Education_law.pdf

suggest that birth registration is a pre-requisite to access to education in Afghanistan. As noted above, according to UNICEF-funded analysis of birth registration released in February 2005, only 6.2% of children under the age of five were registered in Afghanistan. However, primary school attendance rates were much higher in that period. Whilst the Afghan Education Law is silent on the point, analysis of the percentage of children receiving primary school education versus those whose births are registered suggests that birth registration is not required to access education.

Notably, it states on the website for the Ministry of Interior Affairs that the "*Government of Afghanistan has made it clear that once the [birth registration] system has been completely revitalized, birth certificates will be a requirement to accessing basic services such as education, immunization and health*".³⁰ Although no further information is provided as to under what circumstances or when this was communicated by the Government of Afghanistan, it is clear that, in due course, birth registration may very well be a pre-requisite to accessing education.

Obtaining a primary school diploma

Yes () No () Unclear (X) Law _____

See above.

Obtaining a secondary school diploma

Yes () No () Unclear (X) Law _____

See above.

Access to health (emergency services only)

Yes () No () Unclear (X) Law _____

Birth registration is not necessary for access to emergency health services. There is nothing in Afghan law which suggests that birth registration is a prerequisite to access to such services, and according to the Afghan Ministry of Public Health's "National Priority Program", over 80% of the population has access to basic health services.³¹ This percentage is far higher than the proportion of population whose births are registered and we can therefore conclude that birth registration is not required for access to health.

As noted above, the Ministry of Interior Affairs website suggests that there are to be reforms in due course which would mean birth registration and possession of a birth certificate would be a requirement to accessing services including immunization and health.³² This statement in itself suggests that at present access to such services are not determined by possession of a birth certificate.

³⁰ Website of the Ministry of Interior Affairs, available at <http://moi.gov.af/en/page/7180>

³¹ Ministry of Public Health, "National Priority Program - Health for all Afghans", (2012), available at <http://moph.gov.af/Content/Media/Documents/NPPEnglishVersionNarrative29July20122752013125750126553325325.pdf>

³² Website of the Ministry of Interior Affairs, available at <http://moi.gov.af/en/page/7180>

Access to health (primary health services only)

Yes () No () Unclear (X) Law _____

See above. Note that in recent years, UNICEF, in conjunction with certain medical charities has launched an initiative in Afghanistan to combine birth registration services with polio vaccination services.³³ The requirement for an individual to have their birth registered in order to receive polio vaccinations is not enshrined in law however.

Access to health (all services)

Yes () No () Unclear (X) Law _____

See above.

Access to social security programmes / cash benefits

Yes () No () Unclear (X) Programme name _____ Law _____

There is no legislation of which we are aware where birth registration is a prerequisite to accessing social security programmes or cash benefits. In interpreting the above, regard should be given to the very limited amount of social security programmes provided by the state in Afghanistan:

"The social security system in Afghanistan is focused only on the provision of pensions to persons with disabilities, former government employees, and families of martyrs, and services for children. Despite constitutional provisions for support to older persons, ill or women without caretakers, no protection mechanisms were developed and the implementation of the law remains sporadic. Extremely vulnerable households that are headed by females, children, older persons, IDPs, returnees, and those who have more than eight children have no additional protection even as they have less social tools to cope. At the time of writing this report, civil society organizations and international community were the sole providers of social services to these groups; service delivery relies entirely on international donors".³⁴

Nationality

Yes () No () Unclear (X) Law _____

As stated above, the government of Afghanistan issues an official identification card known as a "Tazkera", the purpose of which is to "confirm that citizens of Afghanistan are, in fact, citizens, and therefore have a legal relation to the state".³⁵

The application requirements (which do not include a birth certificate or other proof of birth registration) for a *Tazkera* are as follows: two recent photographs, the applicable fee and the *Tazkera* of a close relative on the applicant's father's side of the family.

³³ UNICEF, "UNICEF chief applauds Afghan birth registration effort", 27 August 2004, available at http://www.unicef.org/media/media_14904.html

³⁴ Afghanistan Independent Human Rights Commission, "Economic and Social Rights Report in Afghanistan - III", (2008), p.7-8, available at <http://www.refworld.org/pdfid/4a03f56b2.pdf>

³⁵ UNHCR, "Frequently Asked Questions - National Identification Cards (Tazkeras)", available at <http://www.unhcr.org/4497b1c12.pdf>

Identification card

Yes () No () Unclear (X) Law _____

See above.

Passport

Yes () No () Unclear (X) Law _____

The Afghan passport application form allows identification by reference to birth certificate, existing passport, national ID card or marriage certificate. The Law of Passports in Afghanistan does not specify that a birth certificate is required for application for a passport.³⁶

Other (Please specify e.g. enrolment for social protection programme/ food bank)

As noted above, the majority of social protection programmes are provided by NGOs or provided by international aid rather than provided by the Afghan state. The legislation dealing with access to social services is silent on whether birth registration is a pre-requisite for access to such services.

³⁶ Law of Passports in Afghanistan, 15 Mizan 1318, available at <http://www.asianlii.org/af/legis/laws/lop194/>

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Legislation Reviewed:

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CHAD

Key points

- As a result of the introduction of La loi no 008/PR/2013 portant organisation de l'état civil en République du Tchad (the "**Civil Registry Code**"), from 2013, it is compulsory for the Government to register all new children born in Chad upon birth and, in each case, to issue a birth certificate in the municipality in which the birth took place. Please note that, despite several efforts, we have been unable to obtain a copy of the Civil Registry Code and, therefore, this report is based on our review of secondary sources relating to the Code.
- Birth registration in Chad is free of charge. However, if the one month limit for registering a new born child is not met, \$2.48 must be paid to obtain a judgment permitting late birth registration.³⁷ Such a sum is very expensive for the vast majority of the population of Chad.
- Birth registration, together with the issuance of a birth certificate, is a pre-condition to the following activities, among others, in Chad:
 - enrolment in school;
 - receipt of an ID card; and
 - the right to vote.
- Birth registration is also of vital importance to the children of refugees and migrants, as well as border and nomadic populations.³⁸ Such children may have been separated from their parents or families and birth registration therefore helps to prevent them from becoming stateless. This is highly relevant to Chad, which has a high concentration of Sudanese, Central African Republic ("**CAR**") and Nigerian refugees, as well as many "internally displaced persons".³⁹ Prior to the implementation of the Civil Registry Code, the Government actively distinguished between children born to refugees from the CAR and the children of nomads or refugees from other nations. The Civil Registry Code seeks to harmonise Chad's approach to birth registration but the reality is that the practice of issuing birth certificates to the children of refugees continues to be variable. Therefore, the United High Commissioner for Refugees ("**UNHCR**") continues to monitor whether the Civil Registry Code is being followed in practice. In February 2014, the UNHCR signed a ten

³⁷ Child Soldiers International, "Briefing on the status of implementation of the June 2011 Action Plan on children associated with armed forces and groups and its 10-Point Roadmap", available at http://webcache.googleusercontent.com/search?q=cache:zFecwObQRoQJ:www.child-soldiers.org/user_uploads/pdf/csintapimplementationbriefing13mar2014final2578253.pdf+&cd=9&hl=en&ct=clnk&gl=uk.

³⁸ UNHCR, "I am here, I belong - The urgent need to end childhood statelessness", p 8, available at http://www.unicef.org/protection/files/FINAL_ENGLISH_PDF.pdf.

³⁹ United States Department of State (Bureau of Democracy, Human Rights and Labour), "Chad Human Rights Report 2013", p 20, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dldid=220096> ; Amnesty International, "The State of the World's Human Rights", 2014/15, p 104-105, available at <https://www.amnesty.org/en/documents/pol10/0001/2015/en/>.

month agreement with the Chadian Association for the Promotion of Liberty and Fundamental Rights to monitor the provision of birth certificates in refugee camps in eastern Chad.⁴⁰

Name of official authority in charge of registering a child's birth:

The Service de l'Etat Civil.

Where is the civil registry located in the government?

() Ministry of Justice

(X) Ministry of Interior

() Electoral Agency

() Independent Entity

() Other

Law and other relevant instruments:

Does the country apply jus sanguinis (nationality determined by natural parents) or jus soli (nationality determined by birth location) in their legal (constitutional) framework?

Nationality is determined by both the location of a child's birth and its natural parentage.⁴¹

Is there any legal obligation to register children?

Yes (X) No ()

If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.

As stated above we have not been able to obtain a copy of the Civil Registry Code. The Code makes it compulsory for the Government to register all new children born in Chad upon birth and, in each case, to issue a birth certificate in the municipality in which the birth took place.

Does the child need to be registered within a certain amount of time from birth?

Yes (X) No ()

If yes, by when?

⁴⁰ United States Department of State (Bureau of Democracy, Human Rights and Labour), "Chad Human Rights Report 2013", p 20, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220096>

⁴¹ United States Department of State (Bureau of Democracy, Human Rights and Labour), "Chad Human Rights Report 2013", p 20, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220096>

Within one month of the birth. Prior to the implementation of the Civil Registry Code, births had to be registered within two months. The restriction on the time period seems to undermine the Government's political will to improve Chad's birth registration rate.⁴²

Is a paper certificate issued as a result of the registration?

Yes (X) No ()

The Civil Registry Code seeks to harmonise the approach to birth registration so that anyone born in Chad now receives a paper birth certificate.

Different by region/area?

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

Is there a separate fee for the issuance of a paper certificate?

Yes () No (X)

According to the *Note circulaire Acte de naissance 2007* ("**Note Circulaire 2007**"), only copies and extracts of birth certificates are subject to the equivalent of a stamp duty tax ("*droits de timbre*").⁴³

Different by region/area

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

Birth Registration Fee

Yes () No (X) Conditional ()

The Civil Registry Code seeks to modernise and strengthen registration arrangements by providing free registration to all children born in Chad (including children of refugees).⁴⁴

⁴² Child Soldiers International, "Briefing on the status of implementation of the June 2011 Action Plan on children associated with armed forces and groups and its 10-Point Roadmap", available at http://webcache.googleusercontent.com/search?q=cache:zFecwObQRoQJ:www.child-soldiers.org/user_uploads/pdf/csintapimplementationbriefing13mar2014final2578253.pdf+&cd=9&hl=en&ct=clnk&gl=uk

⁴³ Note circulaire Acte de naissance 2007 [Chad], No. 148/PR/PM/MISP/SE/SG/DAPEC/2007, available at <http://www.refworld.org/docid/523170e54.html>.

⁴⁴ UNHCR, "Submission by the UNHCR For the Office of the High Commissioner for Human Rights' Compilation Report - Universal Periodic Review: CHAD", points 39 and 40, available at <http://www.refworld.org/docid/514ac48c2.html>

If yes, amount in USD: _____

If it's conditional, please provide reasons/cases for exemption.

Not applicable.

Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration')

Yes (X) No ()

If the one month time limit is not met, there is an option to pay 1,500 Central African CFA Francs (approximately \$2.55)⁴⁵ to obtain a judgment permitting late birth registration.⁴⁶ This is very expensive for the vast majority of the population and is not in accordance with the position adopted by the UNHCR on the late (or delayed) registration of birth, which is that registration of this kind should also be free of charge.⁴⁷

If yes, amount in USD: \$2.55

Note that in 2007 there was a specific drive by UNICEF, in partnership with the Government, to establish regular and accurate registration of births in Chad through a "*Programme de Coopération TCHAD UNICEF 2006-10*"⁴⁸ and "*Plan de travail Annuel 2007*".⁴⁹

To complement this aim, the Minister of the Interior and Public Security distributed the Note Circulaire 2007⁵⁰ to local Government representatives of various regions in Chad encouraging the promotion of birth registration. This was facilitated by the provision of free birth certificates to children of Chadian parents (and legal guardians) whose births had not yet been registered, irrespective of the delay in registering the births of these children.

Requirements for Birth Registration (tick what applies):

Identification of Child's Father (X) His Nationality ()

⁴⁵ All conversions are approximate and were made at the time of writing using a commercial rate of exchange available at www.xe.com.

⁴⁶ Child Soldiers International, "Briefing on the status of implementation of the June 2011 Action Plan on children associated with armed forces and groups and its 10-Point Roadmap", available at http://webcache.googleusercontent.com/search?q=cache:zFecwObQRoQJ:www.child-soldiers.org/user_uploads/pdf/csintapimplementationbriefing13mar2014final2578253.pdf+&cd=9&hl=en&ct=clnk&gl=uk

⁴⁷ UNHCR, Submission by the UNHCR For the Office of the High Commissioner for Human Rights' Compilation Report - Universal Periodic Review: CHAD, points 39 and 40, available at <http://www.refworld.org/docid/514ac48c2.html>

⁴⁸ UNICEF, "Programme de Coopération TCHAD UNICEF 2006-10", available at http://www.unicef.org/spanish/evaldatabase/files/Rapport_evaluation_ETMS_jan2006.pdf.

⁴⁹ United Nations Development Programme, "Plan d'Action Annuel 2007", available at <http://www.undp.org/content/dam/undp/documents/projects/BEN/AWP%202007.pdf>.

⁵⁰ Note Circulaire 2007, available at <http://www.refworld.org/docid/523170e54.html>.

Identification of Child's Mother (X) Her Nationality ()

Marital Status (X)

Declarations of birth must be made by the child's father, mother, one of its parents or close relatives or any person present at the birth, in the municipality where the birth took place.⁵¹ The fact that the Chadian Government has decided to require disclosure of the parents' marital status on the birth certificate risks discrimination against illegitimate children.⁵²

Chad is one of the African countries that applies a *jus soli* and *jus sanguinis* rule, providing automatic citizenship and therefore the right to a birth certificate to any child born on national soil.⁵³ Citizenship is therefore derived by birth within the country's territory and from one's parents. To this end, the nationality of a parent is not a requirement for obtaining a birth certificate.

Are Stateless / Refugee Births Registered?

Yes (X) No ()

The Civil Registry Code provides for the registration of all births and deaths of foreign persons in Chad. However, lack of access to the civil registry, including to birth, marriage and death certificates, is still a significant barrier to the enjoyment of refugees' rights in Chad.

Are children of single parents registered?

Yes (X) No ()

The Government insists on the inclusion of the parents' marital status, but there is no indication that this precludes children of single parents from being registered. Although as stated above this could risk discrimination against illegitimate children.⁵⁴

Are all children born in the territory registered?

Yes (X) No ()

The Civil Registry Code requires all children, including refugees, to have a birth certificate issued in their place of birth.⁵⁵ Prior to the passing of this law, children born to refugees from Sudan were not

⁵¹ Ordonnance 33/PG.-INT. du août 1962 code de la nationalité tchadienne, Article 9, available at <http://www.refworld.org/docid/492e931b2.html>.

⁵² Child Soldiers International, op. cit. See also, UNICEF Annual Report 2014, "The Republic of Chad", available at http://www.unicef.org/about/annualreport/files/Chad_Annual_Report_2014.pdf.

⁵³ Open Society Foundations (OSF), "Citizenship Law in Africa: A Comparative Study", January 2016, available at <http://www.refworld.org/docid/56a77ffe4.html>.

⁵⁴ Child Soldiers International, "Briefing on the status of implementation of the June 2011 Action Plan on children associated with armed forces and groups and its 10-Point Roadmap", available at http://webcache.googleusercontent.com/search?q=cache:zFecwObQRoQJ:www.child-soldiers.org/user_uploads/pdf/csintapimplementationbriefing13mar2014final2578253.pdf+&cd=9&hl=en&ct=clnk&gl=uk

⁵⁵ United States Department of State (Bureau of Democracy, Human Rights and Labour), "Chad Human Rights Report 2013", p 36, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220096>

considered citizens and generally were not provided with birth certificates. Children born to refugees from the CAR, although not considered citizens, were provided with birth certificates.

Despite the introduction of the law, families still face logistical challenges to reaching registration centres and the cost of registration (free only within one month of birth). As a result, birth in practice continues to be out of reach for many.⁵⁶ A Chadian journal, "*Le Citoyen*" no. 036 of 5 - 12 May 2014 reported that about 84.3% of Chadians are still without birth certificates.⁵⁷

If no, please provide list of those not registered.

Children born to Sudanese refugees (see above).

Other Requirements (if none, put not applicable)

Not applicable.

Registration System Set-up (this may not be in the legal framework)

Electronic Submission () Paper Submission (X) Both ()

The issuing authority which provides birth certificates is the Ministry of the Interior and the delegated authorities that fall within its jurisdiction. Firstly, the applicant is required to obtain a certificate of approximate age (*le certificat d'age apparent*) issued by a qualified medical doctor. Secondly, the applicant, accompanied by two witnesses to establish that the applicant is a true Chadian, must present the *certificat d'age apparent* to a judge. After the judge is satisfied that the applicant is a true Chadian, he or she issues another a piece of paper called the *jugement supplétif*. Finally, depending on the municipality in which the applicant lives, he or she must present the *jugement supplétif* to the town hall (*la mairie*), the district or subdistrict (*la préfecture or la sous préfecture*) officer or the chief administrative officer (*le chef de poste administratif*) at the village administrative level (*la commune*). The officer then issues a birth certificate.⁵⁸

Births are registered at the civil registry in the municipality in which the birth took place.⁵⁹ There are various types of civil registry offices - the civil registry itself, main civil registry offices and branches of

⁵⁶ Child Soldiers International, "Briefing on the status of implementation of the June 2011 Action Plan on children associated with armed forces and groups and its 10-Point Roadmap", p.4, available at http://webcache.googleusercontent.com/search?q=cache:zFecwObQRoQJ:www.child-soldiers.org/user_uploads/pdf/csintapimplementationbriefing13mar2014final2578253.pdf+&cd=9&hl=en&ct=clnk&gl=uk

⁵⁷ Office Notarial Me Bechir Madet, Revue de Presse due 25 au Fevrier 2014, available at http://www.notaire-madet.net/index.php?l_nr=index.php&l_nr_c=aeb764a6a854dd20beb97ec048c4ac14&l_idpa=183&langue_id=1.

⁵⁸ Immigration and Refugee Board of Canada, "Chad: Official procedure for obtaining a birth certificate, the period involved and whether the process can be circumvented", available at: <http://www.refworld.org/docid/3ae6ab7c70.html>.

⁵⁹ Ordonnance 33/PG.-INT. du août 1962 code de la nationalité tchadienne, Article 9, available at <http://www.refworld.org/docid/492e931b2.html>.

the civil registry. Each has the authority to accept birth registrations and provide certificates.⁶⁰ It has been reported that deputy prefects have control of the registers and continue to register births without having the required legal status of a civil registrar.⁶¹

Birth registrations are completed by verbal declaration at the civil registry by the father, mother, a close family member or any person who facilitated the birth.⁶² The legislation confirms that the marriage certificate of the parents must be presented to the registrar, however if this is not available the registrar is not permitted to refuse the registration.⁶³

Location of registration facilities (this may not be in the legal framework)

Capital city Yes () No ()

Other cities Yes () No ()

Villages Yes () No ()

Other (X)

Births are registered at the civil registry in the municipality in which the birth took place.⁶⁴

Birth Registration is required for:

Access to education

Yes (X) No () Unclear (X) Law _____

No relevant specific legislative or government policy provisions were found that might require birth registration in order to be admitted into education. However, it is possible that there are provisions in the Civil Registry Code that we were not able to access.

After the Civil Registry Code was brought in, "*government did not register all births immediately; children without birth certificates were allowed to enroll in schools*".⁶⁵ This implies that birth certificates

⁶⁰ UNICEF Tchad, "Evaluation du système d'état civil (enregistrement des naissances au Tchad et Recommandations pour améliorer le système)" 2009, p 21, available at <http://www.unicef.org/evaldatabase/files/CHD-2009-001-1.pdf>

⁶¹ UNICEF Tchad, "Evaluation du système d'état civil (enregistrement des naissances au Tchad et Recommandations pour améliorer le système)" 2009, p 22, available at <http://www.unicef.org/evaldatabase/files/CHD-2009-001-1.pdf>

⁶² Ordonnance 33/PG.-INT. du août 1962 code de la nationalité tchadienne, Article 9, available at <http://www.refworld.org/docid/492e931b2.html>.

⁶³ UNICEF Tchad "Evaluation du système d'état civil (enregistrement des naissances au Tchad et Recommandations pour améliorer le système)" 2009, p 22, available at <http://www.unicef.org/evaldatabase/files/CHD-2009-001-1.pdf>

⁶⁴ Ordonnance 33/PG.-INT. du août 1962 code de la nationalité tchadienne, Article 9, available at <http://www.refworld.org/docid/492e931b2.html>.

are not required, but this may be due to the time it takes to implement the compulsory registration under the Civil Registry Code.

Obtaining a primary school diploma

Yes (X) No () Law _____

Children are required to have a birth certificate from the age of 12 so that they can take the exam to progress to the first year of secondary school.⁶⁶

Obtaining a secondary school diploma

Yes (X) No () Law Loi No. 003/PR/2009 portant code electoral ("**Decree relating to the Reorganisation of the Baccalaureate Exam of Secondary Education**")

In order to register for a secondary school diploma, candidates must provide one certified copy of their birth certificate comprising the individual's first name and surname and their school reports from primary and secondary school.⁶⁷ Article 18 of the Decree relating to the Reorganisation of the Baccalaureate Exam of Secondary Education confirms that official candidates must provide the following documentation to register for the Baccalaureate:

- one certified copy of their birth certificate;
- certificate of Chadian nationality;
- their last school report;
- four recent passport photographs;
- certificate of graduation for the school year; and
- a receipt for the registration fee for the exam.⁶⁸

Access to health (emergency services only)

Yes () No () Unclear (X) Law _____

No relevant specific legislative or government policy provisions were found that might require birth registration in order to access health services.

Access to health (primary health services only)

Yes () No () Unclear (X) Law _____

See above.

⁶⁵ United States Department of State (Bureau of Democracy, Human Rights and Labour), "Chad Human Rights Report 2013", p 20, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252665>

⁶⁶ UNICEF Tchad "Evaluation du système d'état civil (enregistrement des naissances au Tchad et Recommandations pour améliorer le système)" 2009, p 9, available at <http://www.unicef.org/evaldatabase/files/CHD-2009-001-1.pdf>

⁶⁷ Office National des Examens et Concours du Supérieur, Des séries du baccalauréat, available at http://www.onecs.org/bac_menu2.html

⁶⁸ Decree relating to the Reorganisation of the Baccalaureate Exam of Secondary Education, available at <http://legitchad.cefod-tchad.org/texte/874>

Access to health (all services)

Yes () No () Unclear (X) Law _____

See above.

Access to social security programmes / cash benefits

Yes () No () Unclear (X) Programme name _____ Law _____

No relevant specific legislative or government policy provisions were found that might require birth registration in order to access social security programmes/cash benefits.

Nationality

Yes () No () Unclear (X) Law _____

No relevant specific legislative or government policy provisions were found that might require birth registration in order to acquire nationality.

Please see the answer to "Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?" above.

Identification card

Yes (X) No () Unclear (X) Law _____

No relevant specific legislative or government policy provisions were found that might require birth registration in order to be admitted into education. However, it is possible that there are provisions in the Civil Registry Code that we were not able to access.

Nevertheless, before the Civil Registry Code was implemented birth registration was required for obtaining an ID card guaranteeing free movement.⁶⁹

Passport

Yes () No () Unclear (X) Law _____

No relevant specific legislative or government policy provisions were found that might require birth registration in order to gain a passport.

Other (Please specify e.g. enrolment for social protection programme/ food bank)

A citizen may need to provide a form of ID in order to vote. This does not necessarily require a birth certificate as forms of ID that qualify include their national identity card, military record, driving licence, pension record, student card, consular card or citizenship card).⁷⁰

⁶⁹ UNICEF Tchad "Evaluation du système d'état civil (enregistrement des naissances au Tchad et Recommandations pour améliorer le système)" 2009, p 21, available at <http://www.unicef.org/evaldatabase/files/CHD-2009-001-1.pdf>

⁷⁰ Loi No. 003/PR/2009 portant code electoral, available at http://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Chad_Electoral%20code_2009_fr.pdf

A citizen requires a birth certificate in order to adopt a child under the age of 16⁷¹, and to run as a political candidate in the presidential elections, regional elections, rural elections or municipal elections.⁷²

⁷¹ Le Wiki de l'adoption, Tchad, available at <http://www.coeuradoption.org/wiki/doku.php?id=pays:tchad>

⁷² Electoral Institute for Sustainable Democracy in Africa, "Project de Renforcement des Capacités des Parties Politiques au Tchad - Guide du Candidate aux Élections", available at http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=38&cad=rja&uact=8&ved=0ahUKEwjg74-v4P7KAhXG1xoKHXdAps4HhAWCFMwBw&url=http%3A%2F%2Fcecef.org%2Fwp-content%2Fplugins%2Fcpt-bibliotheque%2Ftelecharger.php%3Fid%3D1625&usg=AFQjCNEM60SWwS2bywA_BaHgPcr04ADsHA.

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ETHIOPIA

Key points

- Birth registration is not currently compulsory. However, a new system is planned to be enforced by the Vital Events Registration Agency in September 2016.
- Birth certificates are provided by Kebeles (municipalities), churches and hospitals, and fees vary depending on the institution granting the certificate.

Name of official authority in charge of registering a child's birth:

Children are not registered at birth by a government authority that recognises the civil status of a newborn.⁷³ This is likely to change when the new system will be enforced by the Vital Events Registration Agency. Births are recorded by hospitals, churches and municipalities. Hospitals can record a birth if this is where the delivery took place, churches can record a birth if and when the child is baptised, and Kebeles (municipalities) may add the name of a newborn to the list it keeps of family members or beneficiaries upon the request of a family.

Where is the civil registry located in the government?

() Ministry of Justice

() Ministry of Interior

() Electoral Agency

() Independent Entity

(X) Other

See above.

Law and other relevant instruments:

Article 36 of the Constitution of the Federal Democratic Republic of Ethiopia specifies the right of the child to a name and nationality, as well as the right to know his/her parents.⁷⁴

The Registration of Vital Events and National Identity Card Proclamation No. 760/2012 ("**Proclamation No. 760/2012**") specifies that vital events in Ethiopia must be registered. A "vital event" is defined in Proclamation No. 760/2012 as including the birth of a child. Article 18(2) of Proclamation No. 760/2012 requires that this be done within a period of 90 days from the birth of that

⁷³ Plan Ethiopia and The African Child Policy Forum, "Perception and practice: A review of birth registration in Addis Ababa and the Regional States of Oromia, Amhara and SNNPR, Ethiopia", September 2005, p. 35, available at <http://unstats.un.org/unsd/vitalstatkb/Attachment698.aspx>

⁷⁴ Constitution of the Federal Democratic Republic of Ethiopia 1995 (entering into force on 21 August 1995), Article 36, available at http://www.icla.up.ac.za/images/constitutions/ethiopia_constitution.pdf

child.⁷⁵ Whilst no specific details are explicitly set out, Article 17 of Proclamation No. 760/2012 provides that such information shall be registered with the necessary detail to be used for "*legal, administrative and statistical purposes*".⁷⁶ The details of birth registration are to be kept in a specific register in accordance with Articles 10 and 11 of Proclamation No. 760/2012.⁷⁷

Proclamation No. 760/2012 also sets out, in Articles 4 and 5 respectively, that federal and regional organisations are to be created to administer and keep records of such "vital events".⁷⁸ A person empowered to register "vital events", either as part of such an organisation or under any other provision of Proclamation No. 760/2012 (e.g. a sea captain is, in specific circumstances, empowered to register a "vital event")⁷⁹ is designated an officer of civil status. Article 17 requires an individual wishing to register a "vital event" to physically present themselves before an officer of civil status to submit and confirm the information that is to be entered into the register.⁸⁰

Although published, Proclamation No. 760/2012 provides in Article 67 that until implemented, the existing provisions relating to registration of "vital events" shall remain in place subject to a two year deadline.⁸¹ The provisions of Proclamation No. 760/2012 have however not yet been implemented despite the fact the deadline has now elapsed. In addition, none of the existing legislation on the statute books provides a birth registration regime. The 1960 Civil Code of Ethiopia came close in that it provided for the implementation of a regime.⁸² However, the provisions have never come into force due to a transitory provision in the Civil Code itself which specifies that the provisions pertaining to registers of civil status shall not come into force until a date has been notified by an order.⁸³ Such an order has never been published. Proclamation No. 760/2012 also repealed large portions of the 1960 Civil Code of Ethiopia that pertain to the registration of "vital events".⁸⁴

It would seem that the Ethiopian government is now taking steps to implement the provisions of Proclamation No. 760/2012. The federal Vital Events Council ("**Council**") is the highest body on civil registration matters. The Chairperson of the Council is the Minister of Justice, and members are to be designated by the government and drawn from the relevant government offices and regions.

⁷⁵ Proclamation No. 760/2012, "A Proclamation on Registration of Vital Events and National Identity Card" (entering into force on 22 August 2008), Article 18/2, available at <https://chilot.files.wordpress.com/2013/04/proclamation-no-760-2012-registration-of-vital-events-and-national-identity-card-proclamation.pdf> and at <http://www.refworld.org/docid/409100414.html>

⁷⁶ Proclamation No. 760/2012, Article 17

⁷⁷ Proclamation No. 760/2012, Articles 10 and 11

⁷⁸ Proclamation No. 760/2012, Articles 4 and 5

⁷⁹ Proclamation No. 760/2012, Article 8

⁸⁰ Proclamation No. 760/2012, Article 17

⁸¹ Proclamation No. 760/2012, Article 67

⁸² 1960 Civil Code of Ethiopia, Article 74, Chapter 3, section 2, available at [http://www1.umn.edu/humanrts/research/Civil%20Code%20\(English\).pdf](http://www1.umn.edu/humanrts/research/Civil%20Code%20(English).pdf)

⁸³ 1960 Civil Code of Ethiopia, Article 3361, Chapter 1, Title XXII

⁸⁴ Proclamation No. 760/2012, Article 68

The government has also established the Vital Events Registration Agency to administer registration of such events (including births) by the decision of Council of Ministers, Regulation No. 278/2005.⁸⁵

An action plan detailing steps to implement the measures of Proclamation No. 760/2012 up to 2018 was also produced in conjunction with the United Nations Population Fund. The action plan was produced prior to the creation of both the Vital Events Council and the Vital Events Registration Agency, and is thus slightly outdated and does not, for example, address the expiry of the two year implementation deadline. However, it does set out in some detail how the administrative structure could be expected to function when finally implemented.⁸⁶

Despite the delay, it has been reported that the Ethiopian government intends to commence registration and enforcement of Regulation No. 760/2012 by the end of 2016.⁸⁷

Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?

Ethiopia follows *jus sanguinis*.

Article 6 of the Constitution⁸⁸ states that "*any person of either sex shall be an Ethiopian national where both or either parent is Ethiopian*". It also goes on to state that "*particulars relating to nationality shall be determined by law*".⁸⁹

The key piece of legislation concerning nationality in Ethiopia is the Proclamation on Ethiopian Nationality (Proclamation Number 378/2003) ("**Nationality Proclamation**").⁹⁰ The Nationality Proclamation seems to have come into force so that there was a comprehensive nationality law that would be consistent with the gender neutral provisions of the Constitution (as under the previous nationality law enacted in 1930, the nationality of the child followed that of the father). The Nationality Proclamation is not stated to have retroactive effect.⁹¹

⁸⁵ UNICEF Ethiopia, "Essence of vital events registration: Ethiopia established Vital Events Registration Agency", available at <https://unicefethiopia.wordpress.com/2013/10/31/essence-of-vital-events-registration-ethiopia-established-vital-events-registration-agency/>

⁸⁶ UNFPA, "Towards sustainable vital events registration and vital statistics systems of Ethiopia: Strategy and Action Plan," Chapter 2, available at, <http://ethiopia.unfpa.org/resources/civil-registratio-and-vital-statistics>

⁸⁷ The Ethiopian Herald, "Agency plans nationwide vital events registration", 4 December 2015, available at <http://www.ethpress.gov.et/herald/index.php/news/national-news/item/3024-agency-plans-nationwide-vital-events-registration>

⁸⁸ Constitution of the Federal Democratic Republic of Ethiopia 1995, available at http://www.icla.up.ac.za/images/constitutions/ethiopia_constitution.pdf

⁸⁹ Constitution of the Federal Democratic Republic of Ethiopia 1995, Article 6, available at http://www.icla.up.ac.za/images/constitutions/ethiopia_constitution.pdf

⁹⁰ Proclamation No. 378/2003 "A Proclamation on Ethiopian Nationality" (entering into force on 23 December 2003), available at <http://www.refworld.org/docid/409100414.html>

⁹¹ Open Society Foundations, "Citizenship Law in Africa: A Comparative Study", p. 53 - 54, available at <http://www.unhcr.org/4cbc60ce6.pdf>

Article 3 of the Nationality Proclamation deals with acquisition of Ethiopian nationality by descent and echoes the Constitution (namely, that only one parent needs to be an Ethiopian national for the child to be considered Ethiopian at birth). In addition to this, Article 3 provides that an infant found abandoned in Ethiopia shall, unless proved to have a foreign nationality, be deemed to have been born to an Ethiopian parent and shall acquire Ethiopian nationality.

By virtue of Article 4, Articles 5 to 12 of the Nationality Proclamation deals with acquisition of Ethiopian nationality by law. Article 4 states that "*any foreigner may acquire Ethiopian nationality by law in accordance with the provisions of Articles 5 to 12*". Article 7 provides that a child adopted by an Ethiopian national may acquire Ethiopian nationality by law upon several conditions being met, including the child living in Ethiopia with the adopting parent. In addition, Article 9 set out provisions for children of naturalised persons acquiring Ethiopian nationality. It states that a person who has acquired Ethiopian nationality by law (that is, in accordance with Article 4 of the Nationality Proclamation) may apply for his or her child living with him in Ethiopia to be naturalised.

It is also noted that under both the naturalisation and adoption provisions of the Nationality Proclamation outlined above, dual nationality is categorically not recognised and evidence of the release of any other nationality must be provided before being able to acquire Ethiopian nationality.

Is there any legal obligation to register children?

Yes () No (X)

If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.

As set out above, there is no operative national law requiring the registration of births.

Does the child need to be registered within a certain amount of time from birth?

Yes () No (X)

If yes, by when?

Not applicable.

Is a paper certificate issued as a result of the registration?

Yes () No () Unclear (X)

A certificate issued by the municipalities will include the date, time and place of birth, name, sex, name of parents and nationality of the child.

A certificate issued by a hospital will include the date, time and place of birth, the name and sex of the child and name of the mother.

A certificate issued by a church will include the date, time, place of birth, name, sex, date of baptism, name and nationality of the parents and name of godfather and godmother.

Different by region/area?

Yes (X) No ()

If it's different by region/or area, please provide us more detail.

Verification of birth is done by different means: certificates issued by churches and hospitals, testimonials from Kebele social courts, vaccination cards, school leaving certificates and Kebele IDs.⁹² The information recorded on birth certificates issued by municipalities, churches and hospitals is not identical. As a result of this, individuals may have more than one birth certificate from the same or different municipalities.

Kebeles issue birth certificates to anyone who requests one. The individual may apply to the municipalities of Addis Ababa and other regional towns. To obtain a birth certificate, there are certain requirements, but these are not uniform or consistent across municipalities.⁹³ For instance, in Addis Ababa, a person above the age of 18 has to produce an identification card from a recognised government institution (such as passport, identification card issued by the Kebele or a birth certificate from hospital) on which the year of their birth and the names of their parents should be indicated.

The Ethiopian Orthodox, Catholic and Evangelical sects all issue baptism certificates.⁹⁴ In the Ethiopian Orthodox church, boys are baptised 40 days after birth. Girls are baptised 80 days after birth. Baptismal certificates allow individuals to calculate their birth by counting backwards. In practice, issuance of a baptism certificate relies on the spiritual father testifying that the individual applying was a follower of the church and that the applicant would pay a fee. In evangelical churches, there are no predefined days for baptism so the date of birth that appears on the baptism certificate is that given by the applicant.

In hospitals and health clinics, birth certificates are issued to any child born on the premises. Hospitals keep a record of deliveries and they issue a birth certificate for those seeking one immediately or later on.⁹⁵

⁹² Plan Ethiopia and The African Child Policy Forum, "Perception and practice: A review of birth registration in Addis Ababa and the Regional States of Oromia, Amhara and SNNPR, Ethiopia", September 2005, p. 36-39, available at <http://unstats.un.org/unsd/vitalstatkb/KnowledgebaseArticle50671.aspx>

⁹³ Plan Ethiopia and The African Child Policy Forum, "Perception and practice: A review of birth registration in Addis Ababa and the Regional States of Oromia, Amhara and SNNPR, Ethiopia", September 2005, p. 36-39, available at <http://unstats.un.org/unsd/vitalstatkb/KnowledgebaseArticle50671.aspx>

⁹⁴ Plan Ethiopia and The African Child Policy Forum, "Perception and practice: A review of birth registration in Addis Ababa and the Regional States of Oromia, Amhara and SNNPR, Ethiopia", September 2005, p. 36-39, available at <http://unstats.un.org/unsd/vitalstatkb/KnowledgebaseArticle50671.aspx>

⁹⁵ Plan Ethiopia and The African Child Policy Forum, "Perception and practice: A review of birth registration in Addis Ababa and the Regional States of Oromia, Amhara and SNNPR, Ethiopia", September 2005, p. 36-39, available at <http://unstats.un.org/unsd/vitalstatkb/KnowledgebaseArticle50671.aspx>

The value accorded to birth certificates obtained from churches, hospitals and municipalities is not equal and uniform:

Table 5.2: Value accorded to Certificates and Documents in Relation to Verifying Age

Acceptable documents and mechanisms of verifying age	Circumstances when the verification of age or birth date is required				
	For school enrolment	In criminal proceedings	For employment particularly to join the army or police	To secure an Ethiopian passport	For migration
Certificates from municipalities	X			X	X
Certificates from churches	X				
Certificates from hospitals	X				
Medical examination		X			
Vaccination card	X				
Kebele ID card	X			X	
Personal observation	X				
8th grade examination card			X		

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Is there a separate fee for the issuance of a paper certificate?

Yes (X) No ()

All institutions that issue birth certificates require the payment of a fee.⁹⁷ In the Kebeles, the fee ranges between 20 Birr (\$0.93) in Addis Ababa to 60 Birr (\$2.81) in Assela (Oromia Region). Depending on the church, the fee ranges between 5 Birr (\$0.23) and 20 Birr (\$0.93), or 50 Birr (\$2.35) for an adult. In hospitals, the fee ranges from 3 Birr (\$0.14) to 10 Birr (\$0.47).⁹⁸

Different by region/area

Yes (X) No ()

If it's different by region/or area, please provide us more detail.

Please refer to "Is there a separate fee for the issuance of a paper certificate?" above.

Birth Registration Fee

Yes () No (X) Conditional ()

Not applicable.

⁹⁶ Plan Ethiopia and The African Child Policy Forum, "Perception and practice: A review of birth registration in Addis Ababa and the Regional States of Oromia, Amhara and SNNPR, Ethiopia", September 2005, p. 41, available at <http://unstats.un.org/unsd/vitalstatkb/KnowledgebaseArticle50671.aspx>

⁹⁷ Plan Ethiopia and The African Child Policy Forum, "Perception and practice: A review of birth registration in Addis Ababa and the Regional States of Oromia, Amhara and SNNPR, Ethiopia", September 2005, p. 36-39, available at <http://unstats.un.org/unsd/vitalstatkb/KnowledgebaseArticle50671.aspx>

⁹⁸ All conversions are approximate and were made at the time of writing using a commercial rate of exchange available at www.xe.com.

If yes, amount in USD: _____

Not applicable.

If it's conditional, please provide reasons/cases for exemption.

Not applicable.

Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration')

Yes () No (X)

If yes, amount in USD: _____

Requirements for Birth Registration (tick what applies):

Identification of Child's Father () His Nationality ()

Identification of Child's Mother () Her Nationality ()

Marital Status ()

Not applicable. However, the information provided on the birth certificate will depend on whether the certificate is issued by the municipalities, by a hospital or by a church (see above).

Are Stateless / Refugee Births Registered? Yes () No () Unclear (X)

The Vital Events Proclamation⁹⁹ applies only to Ethiopians and does not include provisions for registering foreign nationals (including refugees and asylum seekers living in Ethiopia).

Article 3 of the Nationality Proclamation¹⁰⁰ provides that an infant found abandoned in Ethiopia shall be presumed to have been born to an Ethiopian parent and shall acquire Ethiopian nationality. In that case, the Vital Events Proclamation¹⁰¹ would apply because the child would be considered Ethiopian.

There is also an obligation to register the birth of a child that has been abandoned or its parents are unknown under the Vital Events Proclamation.¹⁰² In this case, under Article 26(2) and Article 26(3)¹⁰³, there is a duty to report such to the nearest police or other relevant government organ, and upon receiving such a report, the police or government organ has a duty to declare the birth to the officer of civil status of the nearest administrative office. This must be done within three days of the police or government organ receiving the report.

⁹⁹ Proclamation No. 760/2012, Article 3

¹⁰⁰ Ethiopian Nationality (Proclamation Number 378/2003)

¹⁰¹ Proclamation No. 760/2012

¹⁰² Proclamation No. 760/2012

¹⁰³ Proclamation No. 760/2012

Are children of single parents registered?

Yes (X) No ()

There is no legal prohibition for registration of children of single parents.¹⁰⁴

The Revised Family Code (Proclamation No. 213/2000) ("**Family Code Proclamation**")¹⁰⁵ provides the means for establishing paternity of children born out of wedlock. Article 154 of the Family Code Proclamation¹⁰⁶ specifies that both the paternal and maternal filiation of a person is proven by their record of birth. The Family Code Proclamation¹⁰⁷ also contains provisions in the event that there is no record of birth. Pursuant to Article 155, filiation is prove by possession of the status of the child. Article 156 elaborates by providing that a person has possession of the status of the child when they are treated by the community as being the child of such man or woman. In this case, there is a rebuttable presumption that such man or woman is the father or mother of the child. Under Article 158, filiation may also be proved by witnesses or any other evidence.

Are all children born in the territory registered?

Yes () No (X)

If no, please provide list of those not registered.

In accordance with Article 3 of the Vital Events Proclamation¹⁰⁸, the registration of vital events applies only to Ethiopians. This therefore demonstrates that currently there is no provision for the registration of stateless and refugee births. Please see question "*Are Stateless/Refugee Births Registered?*" for more details.

Other Requirements (if none, put not applicable)

Not applicable.

Registration System Set-up (this may not be in the legal framework)

Not applicable.

Electronic Submission () Paper Submission () Both ()

Not applicable.

Location of registration facilities (this may not be in the legal framework)

Capital city Yes () No ()

Other cities Yes () No ()

¹⁰⁴Confirmed by email by Mehrteab Leul & Associates, 25 February 2016

¹⁰⁵Proclamation No. 213/2000, The Revised Family Code, available at:
<http://www.refworld.org/docid/4c0ccc052.html>

¹⁰⁶Proclamation No. 213/2000,

¹⁰⁷Proclamation No. 213/2000

¹⁰⁸Proclamation No. 760/2012

Villages Yes () No ()

Other Hospitals, Health Centres and Churches

Birth Registration is required for:

Access to education

Yes () No () Unclear (X) Law _____

One of the most common reasons for people to seek birth certificates is because schools, especially kindergartens, have made it a requirement for admission.¹⁰⁹ This seems to relate more to private schools than public schools.

Children that have attained the age of seven can start attending primary level of school (1st - 8th grade). One of the means of making sure a child has attained this age is through the production of a birth certificate. However, not all schools use this means of asserting the age of a child.¹¹⁰ Age in rural areas is often assessed by height and teeth.

Non-registration of birth can result in an inability of children to obtain access to education after they are seven years old.¹¹¹ However, it is also said that in public schools, school authorities seldom require the presentation of such documents. They readily accept what the parent of the child says.¹¹²

Obtaining a primary school diploma

Yes () No () Unclear (X) Law _____

Non-registration of birth can be a significant barrier to gaining initial entry into school.

At the end of the second cycle of primary education, students are required to take the 8th Grade National Examination which is administered by the National Office for Examination in order to ensure that the quality of primary education and coverage of the curriculum.¹¹³ Certain professions (including the police, the military and teaching) may not accept birth certificates issued by the municipalities,

¹⁰⁹Plan Ethiopia and The African Child Policy Forum, "Perception and practice: A review of birth registration in Addis Ababa and the Regional States of Oromia, Amhara and SNNPR, Ethiopia", September 2005, p. 36-39, available at <http://unstats.un.org/unsd/vitalstatkb/KnowledgebaseArticle50671.aspx>

¹¹⁰Confirmed by email by Mehrteab Leul & Associates, 14 January 2016

¹¹¹Plan Ethiopia and The African Child Policy Forum, "Perception and practice: A review of birth registration in Addis Ababa and the Regional States of Oromia, Amhara and SNNPR, Ethiopia", September 2005, p 73, available at <http://unstats.un.org/unsd/vitalstatkb/KnowledgebaseArticle50671.aspx>

¹¹²Plan Ethiopia and The African Child Policy Forum, "Perception and practice: A review of birth registration in Addis Ababa and the Regional States of Oromia, Amhara and SNNPR, Ethiopia", September 2005, p. 40, available at <http://unstats.un.org/unsd/vitalstatkb/KnowledgebaseArticle50671.aspx>

¹¹³Janneke Bulder, "Country Analysis Education: Ethiopia", p. 19

churches and hospitals in order to verify age. However, these professions will accept the 8th Grade National Examination Results Card to verify the applicants age.¹¹⁴

Obtaining a secondary school diploma

Yes () No () Unclear (X) Law _____

There is no legal requirement that requires registration of birth for obtaining a degree after high school (secondary school). The Ethiopian Higher Education Proclamation under Article 39 provides that

*"admissions to undergraduate programs of any institution shall be based on completion of the preparatory programs and obtaining the necessary pass marks in the university entrance examination. Admissions may also be granted to students who completed their secondary school in foreign countries on the basis of equivalent academic achievements".*¹¹⁵

Access to health (emergency services only)

Yes () No (X) Law _____

Birth certificates are not required to access healthcare in Ethiopia. However, some healthcare services require a resident ID, and for any minor without a resident ID, their parent or guardian's resident ID will be sufficient.¹¹⁶

Access to health (primary health services only)

Yes () No (X) Law _____

Birth certificates are not required to access healthcare in Ethiopia. However, some healthcare services require a resident ID, and for any minor without a resident ID, their parent or guardian's resident ID will be sufficient.¹¹⁷

Access to health (all services)

Yes () No (X) Law _____

Birth certificates are not required to access healthcare in Ethiopia. However, some healthcare services require a resident ID, and for any minor without a resident ID, their parent or guardian's resident ID will be sufficient.¹¹⁸

¹¹⁴Plan Ethiopia and The African Child Policy Forum, "Perception and practice: A review of birth registration in Addis Ababa and the Regional States of Oromia, Amhara and SNNPR, Ethiopia", September 2005, p. 40, available at <http://unstats.un.org/unsd/vitalstatkb/KnowledgebaseArticle50671.aspx>

¹¹⁵Proclamation No. 650/2009, Higher Education Proclamation, available at <http://www.refworld.org/docid/4ba7a6152.html>

¹¹⁶Confirmed by email by Mehrteab Leul & Associates, 14 January 2016

¹¹⁷Confirmed by email by Mehrteab Leul & Associates, 14 January 2016

¹¹⁸Confirmed by email by Mehrteab Leul & Associates, 14 January 2016

Access to social security programmes / cash benefits

Yes () No (X) Programme name _____ Law _____

The most notable social security programme is the pension scheme; this does not require a birth certificate. Distribution of social benefits is also provided through the Kebele system through the formation of cooperatives.¹¹⁹

Nationality

Yes () No (X) Law _____

The Ethiopian law of nationality is primarily based on descent.¹²⁰ Article 6 of the Constitution provides that any person shall be an Ethiopian national at birth where both, or either the mother or father, are Ethiopian. As such, a child born in Ethiopia (or elsewhere) whose mother or father is an Ethiopian national, automatically becomes an Ethiopian national.

Article 36 of the Constitution¹²¹ states that every child has a right to a name and nationality.

Article 3 of the Nationality Proclamation provides that an infant found abandoned in Ethiopia shall, unless proved to have a foreign nationality, be deemed to have been born to an Ethiopian parent and shall acquire Ethiopian nationality. There are no requirements specified in the Nationality Proclamation¹²² regarding birth registration.

Identification card

Yes () No (X) Law _____

Identity cards are issued by regional governments and may use different languages: for example, Oromifa, Amharic, Somali, Tigre and English. The cards are issued by Kebeles to people of 18 years or older.¹²³

Resident identity cards in Addis Ababa are issued by the Addis Ababa Government Acts and Civil Status Document Office. These are provided to residents at the woredas (district) level.¹²⁴ A birth certificate is an accepted nationality supporting document but other proofs of nationality are also

¹¹⁹Confirmed by email by Mehrteab Leul & Associates, 25 February 2016

¹²⁰Confirmed by email by Mehrteab Leul & Associates, 14 January 2016

¹²¹Federal Democratic Republic of Ethiopia Constitution, Article 36

¹²²Proclamation on Ethiopian Nationality, No. 378/2003, available at <http://www.refworld.org/docid/409100414.html>

¹²³Refworld, "Ethiopia: Appearance of identity cards and birth certificates issued in Addis Ababa", 1 October 2014, available at <http://www.refworld.org/docid/54bf5d616.html>

¹²⁴Refworld, "Ethiopia: Appearance of identity cards and birth certificates issued in Addis Ababa", 1 October 2014, available at <http://www.refworld.org/docid/54bf5d616.html>

accepted (i.e. old or damaged passport, ID cards, letter of community membership, marriage certificate, educational certificate and court decision documents).¹²⁵

Passport

Yes () No (X) Law _____

A birth certificate is not a pre-requisite to obtaining a new or replacement passport but it is one of the documents that an applicant may produce (along with a previous passport and/or ID card) to certify their citizenship.¹²⁶

Other (Please specify e.g. enrolment for social protection programme/ food bank)

Not applicable

¹²⁵ Ethiopian Embassy, available at http://www.ethioembassy.org/consular_services/id_card.htm and http://www.ethiopianembassy.org/ConsularServices/ConsularService.php?Page=ID_01.htm&left=2

¹²⁶ Ethiopian Embassy, available at http://www.ethioembassy.org/consular_services/new_replacement_passport.htm

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GUINEA-BISSAU

Key points

- Births in Guinea-Bissau must be registered within 30 days.
- Due to fees and limited access to birth registration facilities, the majority of children are not registered. In 2013, the registration rate in Guinea-Bissau was only 24%.¹²⁷
- The cost to register is c. \$7.82.¹²⁸
- Registration is required for the child to access public services and education, although at primary school level, this requirement is usually waived. It does not result in the denial of health services.¹²⁹
- In spite of the official 'legal' answers we are able to provide, a UN Committee on the Rights of the Child (CRC) report from December 2011 noted that, *"the rules regarding the registration of children, which are currently in force in the country, are not only difficult to apply, hence the reason why many people stay away, but they are also in disunity with the reality"*.¹³⁰

Name of official authority in charge of registering a child's birth:

Birth registration does not occur automatically at hospitals and to be registered on the Civil Register children must be registered with a notary at various registrars around the Country.¹³¹

Where is the civil registry located in the government?

☒ (X) Ministry of Justice

☐ () Ministry of Interior

☐ () Electoral Agency

☐ () Independent Entity

☐ () Other

¹²⁷ United Nations Children's Fund, "Every Child's Birth Right: Inequalities and trends in birth registration", 2013, p. 16 and 41, available at http://www.unicef.org/gambia/Every_childs_birth_right_-_inequities_and_trends_in_birth_registration_-_2013_report.pdf.

¹²⁸ All conversions are approximate and were made at the time of writing using a commercial rate of exchange available at www.xe.com.

¹²⁹ US Department of State, "Guinea-Bissau - Human Rights Reports", 2014, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236368>

¹³⁰ UN Committee on the Rights of the Child (CRC), "Consideration of reports submitted by States parties under article 44 of the Convention: Combined second, third and fourth periodic reports of States parties due in 2007 - Republic of Guinea-Bissau", 7 December 2011, CRC/C/GNB/2-4, available at <http://www.refworld.org/docid/4ef1d37b2.html>

¹³¹ US Department of State, "Guinea-Bissau - Human Rights Reports", 2014, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236368>

Law and other relevant instruments:

Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?

The country applies both *jus sanguinis* and *jus soli* in their legal framework.

In relation to *jus sanguinis*, Chapter 2, Article 5(1) of the Law of Nationality states that:¹³²

"(1) A person will be a Guinean citizen by origin if they are

- a) The child of a father or mother of Guinean nationality, whether born in Guinea-Bissau or abroad if the Guinean parent is there in the service of the Guinean state; or*
- b) The child of a Guinean parent who is born abroad [the child], if he/she declares that he/she wants to be Guinean, or registers their birth in the Guinean birth register".*

This Article will apply to children born both in and out of wedlock.

In relation to *jus soli*, Chapter 2, Article 5(1) of the Law of Nationality states that:¹³³

"(1) A person will be a Guinean citizen by origin if they are

...

- c) An individual born in [Guinean] national territory who does not possess another nationality, or*
- d) An individual born in [Guinean] national territory to stateless parents or whose nationality is unknown, but who are resident in the Republic of Guinea-Bissau".*

Moreover, Chapter 2, Article 5(2) states that *"a new-born baby that appears in the territory of Guinea-Bissau is presumed to be a Guinean citizen, except where there is evidence to the contrary"*. Therefore, new-borns found abandoned in the national territory are considered to have been born in the territory, unless otherwise established by the law.¹³⁴

Is there any legal obligation to register children?

Yes (X) No ()

If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.

¹³² Law no. 2/92 6th April 1992 Chapter 3, Article 5 [Translation], available at <http://www.refworld.org/publisher,NATLEGBOD,LEGISLATION,GNB,4e3fa9c32,0.html>

¹³³ Law no. 2/92 6th April 1992 Chapter 3, Article 5 [Translation], available at <http://www.refworld.org/publisher,NATLEGBOD,LEGISLATION,GNB,4e3fa9c32,0.html>

¹³⁴ Law no. 2/92 6th April 1992 Chapter 3, Article 5(2), available at <http://www.refworld.org/publisher,NATLEGBOD,LEGISLATION,GNB,4e3fa9c32,0.html>

Any child born within the territory of Guinea-Bissau shall be registered within the 30 days following his birth, at the registry office located in the administrative area where the child was born.¹³⁵

Article 7 of the UN Convention on the Rights of the Child also requires registration, which apparently has direct effect in Guinea-Bissau.

Does the child need to be registered within a certain amount of time from birth?

Yes () No () Unclear (X)

If yes, by when?

Legislation stipulates that a child should be registered 30 days after birth. Decree No. 06/06 of 7 August states that a child's birth registration/certification is free of charge up to five years of age.¹³⁶ This extended the period outlined in Decree No. 09/2004 of 9 December, which stated that registration of a child is free for up to three years after the birth.

However, there are secondary sources which contradict the above. One such source states that registration is free up to the child's seventh birthday,¹³⁷ while another states that there is a fee payable from seven to 13 and from 14 onwards there is a larger fee payable.¹³⁸

Free birth registration for children between 0-10 has been periodically organised.¹³⁹

Is a paper certificate issued as a result of the registration?

Yes (X) No ()

A paper birth certificate is issued.

¹³⁵Committee on the Rights of the Child, "Consideration of Reports Submitted by Parties - Guinea Bissau", 2001, available at <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhstK6yYSguLNL5x9gjkZOg22OX%2BNy38seqPxR6oo14gDkbRKu0DCyYqoxCFPGy%2Fdr1EY7543xJ%2FduwzqBMntFvIOJO780LgHFhiofPrOXHR%2F1>

¹³⁶Decree No. 06/06 of 7 August 2006 reported in UN Committee on the Rights of the Child (CRC), "Consideration of reports submitted by States parties under article 44 of the Convention: Combined second, third and fourth periodic reports of States parties due in 2007 - Republic of Guinea-Bissau", 7 December 2011, CRC/C/GNB/2-4, available at <http://www.refworld.org/docid/4ef1d37b2.html>

¹³⁷Tudo Num Click news website, "Hospital de Bissau tem Registo Civil para bebés", available at <http://tudonumclick.com/noticias/mundo/68320/hospital-de-bissau-tem-registo-civil-para-bebes>

¹³⁸SAPONoticias news website, "Mais de 60 por cento dos guineenses sem registo civil", 23 April 2013, available at <http://noticias.sapo.cv/lusa/artigo/16043799.html>

¹³⁹In March- June 2013 the government allowed anyone who was not on the Civil Register to enter for free for 90 days as part of the National Plan for the Civil Register (*Plano Nacional de Registo Civil*) launched by Law no.1/2011 (<http://noticias.sapo.cv/lusa/artigo/16043799.html>)

Different by region/area?

Yes () No (X)

If it's different by region/or area, please provide us more detail.

The sources reviewed do not specify, but it is assumed that it is the same as resources mention that the Civil Registries are across the country.

Is there a separate fee for the issuance of a paper certificate?

Yes () No () Unclear (X)

The sources reviewed do not specify.

Different by region/area

Yes () No () Unclear (X)

If it's different by region/or area, please provide us more detail.

The sources reviewed do not specify, but the civil registries are located throughout Guinea Bissau and no reviewed sources specify different procedures.

Birth Registration Fee

Yes () No (X) Conditional ()

Birth registration is free up until a certain age. However, as explained above, it is unclear at what age this is.

If yes, amount in USD: _____

If it's conditional, please provide reasons/cases for exemption.

Not applicable.

Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration') Yes (X) No ()

Decree No. 09/2004 of 9 December issued by His Excellency, the Minister of Justice which determines that the acts of certifying/registering the birth of a child between birth and three years of age are free of charge.¹⁴⁰

Decree No. 06/2006 of 7 August, as stated above, extends the period within which a child's birth registration/certification is free of charge to five years of age, invoking that this measure is aimed at providing the right to a name and identity as expected in the CRC.¹⁴¹

¹⁴⁰The African Child Policy Forum, "Birth Registration: The International/Regional Legal Framework", available at http://www.africanchildforum.org/clr/Harmonisation%20of%20Laws%20in%20Africa/other-documents-harmonisation_17_en.pdf

¹⁴¹The African Child Policy Forum, "Birth Registration: The International/Regional Legal Framework", available at

As explained above, certain secondary sources contradict Decree No. 06/2006 of 7 August, stating that registration is free up to the age of seven, and citing an increased registration fee after the child is 14.

If yes, amount in USD: \$7.82, but, as stated above, it is unclear at what age this becomes payable, and whether there might be an increased fee after the child is 14. The value of the increased fee is not available.

Requirements for Birth Registration (tick what applies):

Identification of Child's Father () His Nationality ()

Identification of Child's Mother () Her Nationality ()

Marital Status ()

The sources reviewed do not specify.

Are Stateless / Refugee Births Registered?

Yes (X) No ()

Without access to explicit legal authority on this issue, the position as we understand it is that an individual born in Guinea-Bissau who possesses no other nationality, whose parents' nationality is unknown, or any new-born baby presented for registration in the absence of evidence of another nationality is presumed to have Bissau-Guinean nationality under Law no. 2/92 6th April 1992. It may therefore follow that refugee births of children who do possess another nationality would not be registered.

For abandoned children, the delegate of the Attorney-General of the Republic (the protector of minors) decides on their fate in accordance with the law.¹⁴²

Are children of single parents registered?

Yes (X) No ()

Children are registered if they are born in the country, in or out of wedlock if the either one of the parents are Guinean.¹⁴³

http://www.africanchildforum.org/clr/Harmonisation%20of%20Laws%20in%20Africa/other-documents-harmonisation_17_en.pdf

¹⁴²Committee on the Rights of the Child, "Consideration of Reports Submitted by Parties - Guinea Bissau", 2001, available at

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhstK6yYSguLNL5x9gjkZOg22OX%2BNy38seqPxR6oo14gDkbRKu0DCyYqoxCFPGy%2Fdr1EY7543xJ%2FduwzgbMntFvIOJO780LgHFhiofPrOXHR%2F1>

¹⁴³The Law of Citizenship (found at

[http://www.refworld.org/publisher,NATLEGBOD,LEGISLATION,GNB,4e3fa9c32,0.html](http://www.refworld.org/publisher/NATLEGBOD,LEGISLATION,GNB,4e3fa9c32,0.html)) makes no mention of single or married parents and an April 2011 report on access to justice by the UN Development Program and Guinea-Bissau Department of Justice

Are all children born in the territory registered?

Yes (X) No ()

Children are registered if they are born in the territory to a Guinean mother or father, born to stateless parent or parents with an unknown nationality, or if they are born to foreign parents not living in the national territory in the service of their State, and if they do not declare that they renounce Guinean nationality when they reach majority.

If no, please provide list of those not registered.

Not applicable.

Other Requirements (if none, put not applicable)

Not applicable.

Registration System Set-up (this may not be in the legal framework)

Electronic Submission () Paper Submission (X) Both ()

Sources suggest paper as various "*conservatórias*" (repositories) are mentioned, and there is no mention in the sources reviewed of an electronic system in place.

Location of registration facilities (this may not be in the legal framework)

Capital city Yes (X) No ()

Other cities Yes (X) No ()

Villages Yes () No ()

Other In the various regions of Guinea Bissau.

It is unclear where the registration facilities are within the reasons as sources does not specify locations. However, there are approximately 35 registrars around the country. Resources specify that the child should be registered in the "*administrative area where the child was born*".

(http://www.undp.org/content/dam/guinea_bissau/docs/DocGovernance/UNDP_GW_estudo_acesso_justi%C3%A7a_PT.pdf - p126) notes that a single mother (or presumably single father, though this is not mentioned explicitly) can effect the registration, though difficulties doing this have been reported, apparently due to both mothers and the local registering authorities being unaware of the rules permitting this.

Birth Registration is required for:

Access to education

Yes () No () Unclear (X) Law _____

Children must present their birth certificates to be enrolled at school, although this requirement is usually waived for primary education.¹⁴⁴ Nevertheless, no relevant specific legislative or government policy provisions were found that might require birth registration in order to have access to education.

Obtaining a primary school diploma

Yes () No () Unclear (X) Law _____

Yes, but this requirement is usually waived.¹⁴⁵ Again, no relevant specific legislative or government policy provisions were found that might require birth registration in order to have access to education.

Obtaining a secondary school diploma

Yes () No () Unclear (X) Law _____

See above.

Access to health (emergency services only)

Yes () No () Unclear (X) Law _____

No relevant specific legislative or government policy provisions were found that might require birth registration in order to have access to health care. However, secondary sources state that a lack of birth registration does not result in the denial of health services.¹⁴⁶

Access to health (primary health services only)

Yes () No () Unclear (X) Law _____

See above.

Access to health (all services)

Yes () No () Unclear (X) Law _____

See above.

Access to social security programmes / cash benefits

Yes () No () Unclear (X)

Programme name _____ Law: _____

¹⁴⁴US Department of State, "Guinea-Bissau - Human Rights Reports", 2014, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236368>

¹⁴⁵US Department of State, "Guinea-Bissau - Human Rights Reports", 2014, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236368>

¹⁴⁶US Department of State, "Guinea-Bissau - Human Rights Reports", 2014, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236368>

The right to social security is closely linked with paid professional activities. Nevertheless, we found no specific legislative or government policy provisions that state that birth registration is or is not required.

Article 46(3) of the Constitution guarantees the gradual creation of a system able to ensure social security to a worker of old age, those who are ill or disabled.¹⁴⁷

Decree No 27/85 of 21 June, which approves the rules of the Social Security Fund, provides: (1) assistance to national workers in case of illness; (2) assistance to national citizens in a difficult financial situation, who, in the opinion of the national medical council, need to be evacuated abroad for medical assistance.¹⁴⁸

Children enjoy the assistance of some NGOs and international organisations.

Nationality

Yes () No (X) Law ____

Nationality is derived from the child's parents. Also, a child will be a citizen if they are born within Guinea Bissau and does not have another nationality or if the child is born to stateless parents or to parents whose nationality is unknown.

Identification card

Yes (X) No () Law _____

A Portuguese-language news website quotes the Director-General of Civil Identification at the Ministry of Justice as referring to the need for a birth certificate in order to obtain an identity card.¹⁴⁹

Passport

Yes () No () Unclear (X) Law _____

The sources available did not specify whether birth registration is required.

Other (Please specify e.g. enrolment for social protection programme/ food bank)

Not applicable.

¹⁴⁷ Constitution of the Republic of Guinea-Bissau, 1984, available at <https://webcache.googleusercontent.com/search?q=cache:ToKvJwRplqsJ:https://www.icrc.org/ihl-nat.nsf/0/8ff8cad34667b579c1257083002a6fa8/%24FILE/Constitution%2520Guinea%2520Bissau.doc+&cd=1&hl=en&ct=clnk&gl=uk>

¹⁴⁸ UN Committee on the Rights of the Child, "Considerations of Reports submitted by states parties under Article 44 of the Convention", Paragraph 206, available at <http://www.refworld.org/pdfid/3cba8faf4.pdf>

¹⁴⁹ SAPO Notícias, "Over 60% of Bissau-Guineans not on Civil Register - government" (Portuguese), 23 April 2013, available at <http://noticias.sapo.cv/lusa/artigo/16043799.html>

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LESOTHO

Key points

- In 1973, the introduction of the Registration of Births and Deaths Act made birth registration in Lesotho compulsory.¹⁵⁰
- Birth registration is free and an abridged birth certificate is issued at no cost on registration. Any subsequent issue of a copy of an abridged birth certificate is subject to a fee of \$0.02. There is a fee of \$0.03 for the issue of full particulars of a birth certificate.
- Birth registration and the possession of a birth certificate are de facto prerequisites for access to all of the services that we examined, as detailed below.

Name of official authority in charge of registering a child's birth:

Registrar of Births and Deaths - Government of Lesotho¹⁵¹ (Department of Home Affairs).

Where is the civil registry located in the government?

- () Ministry of Justice
- () Ministry of Interior
- () Electoral Agency
- () Independent Entity
- () Other - Ministry of Local Government (Department of Home Affairs)¹⁵²

Law and other relevant instruments:

Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?

Lesotho applies both *jus sanguinis* and *jus soli*. This is set out in the Constitution of Lesotho, Chapter IV - Citizenship.¹⁵³ Every person born in Lesotho is a citizen of Lesotho and a person born outside Lesotho to a citizen of Lesotho is also a citizen of Lesotho.

Section 38 states:

¹⁵⁰Registration of Births and Death Act 1973, hard copy provided by African Legal Information Institute (University of Cape Town).

¹⁵¹Government of Lesotho, "Lesotho Country Report - Developed for the Eastern and Southern Africa Conference on Universal Birth Registration "Improving Services to Protect the Rights of the Most Vulnerable Children"", available at <http://unstats.un.org/unsd/vitalstatkb/Attachment108.aspx>

¹⁵²Government of Lesotho, "Lesotho Country Report - Developed for the Eastern and Southern Africa Conference on Universal Birth Registration "Improving Services to Protect the Rights of the Most Vulnerable Children"", available at <http://unstats.un.org/unsd/vitalstatkb/Attachment108.aspx>

¹⁵³Constitution of Lesotho 1993, available at http://www.gov.ls/documents/Lesotho_Constitution.pdf

"(1) Subject to the provisions of subsections (2) and (3), every person born in Lesotho after the coming into operation of this Constitution shall become a citizen of Lesotho.

(2) Save as provided in subsection (3), a person shall not become a citizen of Lesotho by virtue of this section if at the time of his birth neither of his parents is a citizen of Lesotho, and

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- a) one or both of his parents possesses such immunity from suit and legal process as is accorded to the envoy of a foreign sovereign power accredited to Lesotho; or*
- b) one or both of his parents is an enemy alien and the birth occurs in a place then under occupation by the enemy.*

(3) A person born in Lesotho on or after the coming into operation of this Constitution who is disqualified to become [sic] a citizen of Lesotho by virtue of subsection (2) of this section shall become a citizen of Lesotho if he would otherwise become stateless".

Section 39 sets out that a person born outside Lesotho after the Constitution came into operation becomes a citizen of Lesotho at the date of his or her birth, if at that date either of his or her parents are a citizen of Lesotho otherwise than by descent.

Is there any legal obligation to register children?

Yes (X) No ()

If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.

Section 3 of the Registration of Births and Death Act 1973 and notice in the Lesotho Government Gazette sets out that there is a legal obligation to register children.

Does the child need to be registered within a certain amount of time from birth?

Yes (X) No ()

If yes, by when?

Section 31 of the Registration of Births and Death Act sets out that the child needs to be registered within seven days of birth if born outside an urban area and within 14 days if living within an urban area.

Is a paper certificate issued as a result of the registration?

Yes (X) No ()

We have not found any legislation which stipulates that a paper birth certificate is issued as a result of registration. However, when we contacted the Lesotho High Commission in London¹⁵⁴, they informed us that a birth certificate is issued on registration.

¹⁵⁴ Website of the Lesotho High Commission in London, available at <http://www.lesotholondon.org.uk/>

Different by region/area?

Yes () No (X)

If it's different by region/or area, please provide us more detail.

We have not found any legislation which stipulates that a paper birth certificate is issued as a result of registration. However, when we contacted the Lesotho High Commission in London, they informed us that the procedure is the same throughout the country.

Is there a separate fee for the issuance of a paper certificate?

Yes () No (X)

An abridged birth certificate is issued at no cost on registration of birth. Any subsequent issue of a copy of an abridged birth certificate is subject to a fee of M0.32 Basotho Loti ("LSL"), which is equivalent to \$0.02.¹⁵⁵

There is a fee of M0.47 LSL, which is equivalent to \$0.03, for the issue of full particulars of a birth certificate.

Different by region/area

Yes () No (X)

Birth Registration Fee:

Yes () No (X) Conditional ()

Registration of a birth within one year of the date of birth carries no fee.

Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration')

Yes (X) No ()

Registration of a birth following the period of one year from the date of birth carries a fee of M1.87 LSL, which is equivalent to \$0.12.

If yes, amount in USD: \$0.12.

Requirements for Birth Registration (tick what applies):

Identification of Child's Father () His Nationality ()

Identification of Child's Mother () Her Nationality ()

Marital Status ()

Regulation 5(1) of the Registration of Births and Deaths Regulations provides that the births register shall be in the form set out in the First Schedule and the registers shall contain the particulars set out

¹⁵⁵ All conversions are approximate and were made at the time of writing using a commercial rate of exchange available at www.xe.com.

therein set forth.¹⁵⁶ Form A (Register of Births) includes the option to record the name of the child's father and mother and their respective nationalities.

Although marital status is not explicitly required, there is an option to record the maiden surname of the mother. Under section 20(2) of the Registrations of Births and Deaths Regulations 1974:

"if a person's parents who were not married to each other at the time of his birth, have married each other before the registration of his birth, such birth shall be registered as if they had been married to each other at the time of his birth".

By virtue of section 3 of the Registrations of Births and Deaths Act 1973, which is the legal basis for compulsory birth registration, the birth of an illegitimate child is required to be registered.

The identification of a father is not compulsory for birth registrations. Section 19 of the Registrations of Births and Deaths Act 1973 provides that no person shall be registered as the father of an illegitimate child except at the joinder request of the mother and the father and upon his acknowledging himself in writing to be the father of the child in the presence of the registrar or district registrar.

Are Stateless / Refugee Births Registered?

Yes (X) No ()

Section 3 of the Registrations of Births and Deaths Act 1973, which is the legal basis for compulsory birth registration, provides that *"the registration of the birth of a child, whether born alive or still-born... after the commencement of this Act shall be compulsory"*.

Are children of single parents registered?

Yes (X) No ()

Section 3 of the Registrations of Births and Deaths Act 1973, which is the legal basis for compulsory birth registration, provides that *"the registration of the birth of a child, whether born alive or still-born... after the commencement of this Act shall be compulsory"*.

Are all children born in the territory registered?

Yes (X) No ()

Section 3 of the Registrations of Births and Deaths Act 1973, which is the legal basis for compulsory birth registration, provides that *"the registration of the birth of a child, whether born alive or still-born... after the commencement of this Act shall be compulsory"*.

If no, please provide list of those not registered.

Not applicable.

Other Requirements (if none, put not applicable)

¹⁵⁶Registration of Births and Deaths Regulations of 1974, hard copy provided by African Legal Information Institute (University of Cape Town).

Not applicable.

Registration System Set-up (this may not be in the legal framework)

Electronic Submission (X) Paper Submission () Both ()

When we contacted the Lesotho High Commission in London, they informed us that the registration system is overseen by the Department of Home Affairs and that the department has offices in all ten districts of Lesotho. Births are captured at hospital and reported to traditional area chiefs who then produce letters accompanying the official birth registration applications at the registry of each district.

When we contacted the Lesotho High Commission in London, they informed us that the registration system is electronic, replacing a previous system that was manual.

Location of registration facilities (this may not be in the legal framework)

Capital city Yes () No ()

Other cities Yes () No ()

Villages Yes () No ()

Other Yes

Registration facilities are present in each of the ten districts of Lesotho.

When we contacted the Lesotho High Commission in London, they informed us that the central IT function of the registration system is located in Mphahle's Hoek, the capital of Mphahle's Hoek District in Lesotho.

Birth Registration is required for:

Access to education

Yes (X) No () Law: Education Act 2010¹⁵⁷, Constitution of Lesotho

The Constitution provides for a general right to education.

Article 28, Constitution of Lesotho

"Lesotho shall endeavour to make education available to all and shall adopt policies aimed at securing that –

- a) education is directed to the full development of the human personality and sense of dignity and strengthening the respect for human rights and fundamental freedoms;*
- b) primary education is compulsory and available to all;*

¹⁵⁷ Education Act 2010, Act No 3 of 2010, available at <http://www.lesotholii.org/ls/legislation/act/2010/3>

- c) *secondary education, including technical and vocational education, is made generally available and accessible to all by every appropriate means, and in particular, by the progressive introduction of free education;*
- d) *higher education is made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular, by the progressive introduction of free education; and*
- e) *fundamental education is encouraged or intensified as far as possible for those persons who have not received or completed their primary education".*

Section 3(a) of the Education Act make provision for free and compulsory education at primary level and section 5(2) of the Education Act provides that a birth certificate shall amount to sufficient proof of age and birth of a learner. Within the Education Act, "school" means any registered school, special school, pre-primary school, primary school, secondary school or high school and "learner" means a person enrolled in a school to receive full-time tuition.

In practice, despite the Constitution providing to make education available to all, there are still requirements to have birth certificates to access this, as detailed below.

Obtaining a primary school diploma

Yes (X) No () Law: Education Act 2010

See above.

Obtaining a secondary school diploma

Yes (X) No () Law: Education Act 2010

See above.

Access to health (emergency services only)

Yes () No () Unclear (X) Law: _____

We have not found any legislation which requires birth registration in order to access emergency healthcare, however when we contacted the Lesotho High Commission in Pretoria,¹⁵⁸ they informed us that a birth certificate or Lesotho passport is required to access medical care for Lesotho citizens.

Access to health (primary health services only)

Yes () No () Unclear (X) Law: _____

See above.

Access to health (all services)

Yes () No () Unclear (X) Law: _____

See above.

¹⁵⁸Embassy Finder, available at https://embassy-finder.com/lesotho_in_pretoria_south-africa

Access to social security programmes / cash benefits

Yes () No () Unclear (X)

Programme name: Lesotho's National Social Protection Strategy and The Lesotho Child Grants Programme, Law _____

Whilst we have not located legislation that suggests that access to social services is dependent on the possession of a birth certificate, the launch of Lesotho's National Social Protection Strategy¹⁵⁹ ("**NSPS**") and The Lesotho Child Grants Programme ("**CGP**")¹⁶⁰ indicates that a birth certificate, or at least proof of age, is required.

The NSPS, which sets out a clear framework for social protection in the country, represents a major milestone towards the building of a social protection system in Lesotho. The CGP is an unconditional social cash transfer targeted to poor and vulnerable households, with the objective being to improve the living standards of Orphans and Vulnerable Children ("**OVC**") so as to reduce malnutrition, improve health status and increase school enrolment among OVC. Households are selected through a combination of proxy means testing and community validation and registered in the National Information System for Social Assistance ("**NISSA**"). The programme is run by the Ministry of Social Development, with financial support from the European Commission and technical support from UNICEF-Lesotho. Whilst there isn't specific reference to the requirement of a birth certificate, we assume that this is required to prove the age of a child in order to qualify for the CGP.

Nationality

Yes () No () Unclear (X) Law: Lesotho Citizenship Order 1971¹⁶¹ and Constitution of Lesotho

Citizenship is based upon the Lesotho Citizenship Order, dated 1971, and the revised Constitution, dated 1993. Any child born within the territory of Lesotho, regardless of the nationality of the parents (with the exception of a child born of parents who are not citizens and whose father works in a diplomatic capacity) is considered a citizen of Lesotho. Any child born abroad, after the Constitution came into operation, becomes a citizen of Lesotho at the date of his or her birth, if at that date either of his or her parents are a citizen of Lesotho otherwise than by descent.

Identification card

Yes () No () Unclear: (X) Law _____

¹⁵⁹ Pathways, "Launch of Lesotho's National Social Protection Strategy", 2015, Issue No 18, available at <http://www.developmentpathways.co.uk/resources/wp-content/uploads/2015/02/18.-Lesothos-National-Social-Protection-Strategy-PP18.pdf>

¹⁶⁰ Ministry of Social Development, "Policy Options for the Lesotho Child Grants Programme", available at http://www.opml.co.uk/sites/default/files/Lesotho%20CGP%20pol%20options%20policy%20brief_WEB.pdf

¹⁶¹ Lesotho Citizenship Order 1971, Order No. 16 of 1971, available at <http://www.unisa.ac.za/contents/faculties/law/docs/Lesotho%20Citizenship%20Act.pdf>

Whilst we cannot find any legislation regarding the issue of Lesotho identification cards, we note that in July 2013, Lesotho started issuing identification cards to all relevant citizens.¹⁶²

Passport

Yes (X) No () Law: Lesotho Passports and Travel Documents Act, 1998¹⁶³

Section 9(2)(a) of Lesotho Passports and Travel Documents Act provides that any application for a passport is accompanied by a birth certificate, an affidavit as to birth, a certificate of naturalisation or registration where applicable.

Section 9(3) further elaborates on the requirements of the affidavit and states that "*an affidavit as to birth...shall be made by:*

a) a parent or legal guardian;

b) a person who was present the village when the applicant was born and is not less than ten years the age of the applicant; and

c) the applicant's close relative who was informed of the applicants birth by the parents".

We note that even though we cannot find any evidence that the Lesotho Passports and Travel Documents Act has been updated or amended, passports have been updated to E-passports in 2014.¹⁶⁴

Other (Please specify e.g. enrolment for social protection programme/ food bank)

Not applicable.

¹⁶²South African Institute of International Affairs, "African Integration: What do New National IDs in Lesotho and South Africa mean?", 25 July 2013, available at <http://www.saiia.org.za/opinion-analysis/african-integration-what-do-new-national-ids-in-lesotho-and-south-africa-mean>

¹⁶³Lesotho Passports and Travel Documents Act 1998, Act No. 15 of 1998, available at http://www.commonlii.org/ls/legis/num_act/pa1998155.pdf

¹⁶⁴Embassy of the Kingdom of Lesotho in Ireland, "Applications for new Lesotho passports and identity documents", available at <http://www.lesothoembassy.ie/news-events/145-applications-for-new-lesotho-passports-and-identity-document.html>

References

Legislation Reviewed:

- Constitution of Lesotho 1993, available at http://www.gov.ls/documents/Lesotho_Constitution.pdf
- Education Act 2010, Act No 3 of 2010, available at <http://www.lesotholii.org/ls/legislation/act/2010/3>
- Lesotho Citizenship Order 1971, Order No. 16 of 1971, available at <http://www.unisa.ac.za/contents/faculties/law/docs/Lesotho%20Citizenship%20Act.pdf>
- Lesotho Passports and Travel Documents Act 1998, Act No. 15 of 1998, available at http://www.commonlii.org/ls/legis/num_act/pa1998155.pdf
- Registration of Births and Death Act 1973;
- Hard copy provided by African Legal Information Institute (University of Cape Town).
- Registration of Births and Deaths Regulations of 1974;
- Hard copy provided by African Legal Information Institute (University of Cape Town).

Further Sources:

- Embassy of the Kingdom of Lesotho in Ireland, "Applications for new Lesotho passports and identity documents", available at <http://www.lesothoembassy.ie/news-events/145-applications-for-new-lesotho-passports-and-identity-document.html>
- Government of Lesotho, "Lesotho Country Report - Developed for the Eastern and Southern Africa Conference on Universal Birth Registration "Improving Services to Protect the Rights of the Most Vulnerable Children", available at <http://unstats.un.org/unsd/vitalstatkb/Attachment108.aspx>
- Ministry of Social Development, "Policy Options for the Lesotho Child Grants Programme", available at <http://www.opml.co.uk/sites/default/files/Lesotho%20CGP%20pol%20options%20policy%20brief%20WEB.pdf>
- Pathways, "Launch of Lesotho's National Social Protection Strategy", 2015, Issue No 18, available at <http://www.developmentpathways.co.uk/resources/wp-content/uploads/2015/02/18.-Lesothos-National-Social-Protection-Strategy-PP18.pdf>
- South African Institute of International Affairs, "African Integration: What do New National IDs in Lesotho and South Africa mean?", 25 July 2013, available at <http://www.saiia.org.za/opinion-analysis/african-integration-what-do-new-national-ids-in-lesotho-and-south-africa-mean>

MALAWI

Key points:

- The National Registration Act 2009 was commenced in August 2015, making birth registration in Malawi compulsory and universal.
- Registration forms are available at District Registration Offices in all 28 districts of Malawi and health facilities in three pilot districts of Chitipa, Ntcheu and Blantyre.
- If a child is registered within the first six weeks of birth, there is no birth registration fee. After this time a prescribed fee is payable.
- There is no fee for the initial issue of a birth certificate. However, if a copy of a birth certificate is required, there is a fee of 2,000 Malawian kwacha ("MK") (\$2.80).¹⁶⁵
- To access services in Malawi it appears that it is not currently necessary to hold a birth certificate.

Name of official authority in charge of registering a child's birth:

The National Registration Bureau ("NRB").

The NRB was officially established in 2007 and is mandated under the National Registration Act 2009 to implement, coordinate, manage and maintain the National Registration and Identification System in Malawi.¹⁶⁶

Where is the civil registry located in the government?

- () Ministry of Justice
- () Ministry of Interior
- () Electoral Agency
- () Independent Entity
- (X) Other The Ministry of Home Affairs and Internal Security.

Within the Ministry, it is the NRB, a government department which is responsible for implementing, coordinating, managing and maintaining the National Registration and Identification System.

Law and other relevant instruments:

Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?

The Citizenship Act 1966¹⁶⁷ provides for *jus sanguinis* determination of nationality.

¹⁶⁵ All conversions are approximate and were made at the time of writing using a commercial rate of exchange available at www.xe.com.

¹⁶⁶ Website of the Malawi Government, "OPC Departments and Units", available at http://www.malawi.gov.mw/index.php?option=com_content&view=article&id=31&Itemid=115

According to section 4 of the Citizenship Act, every person born in Malawi after 5 July 1966 shall become a citizen of Malawi on the date of his birth if one of his parents is a citizen of Malawi and is a person of African race. This provision does not however apply to a person whose father is a citizen of a country with which Malawi is at war and the birth occurs at a place then occupied by the enemy.

Section 5 of the Citizenship Act provides that a person born outside Malawi after 5 July 1966 shall become a citizen of Malawi on the date of his birth if his father or mother is a citizen of Malawi by birth and is a person of African race.

If on 5 July 1966 a person had Malawian citizenship, that citizenship continues irrespective of whether a birth certificate is held.

It is also worth noting that, in accordance with section 6 of the Citizenship Act, dual citizenship of persons is not permitted for those who have reached their majority. Upon reaching 21 years of age any person who is a citizen of Malawi, but who to his own knowledge is also a citizen of some other country, shall cease to be a citizen of Malawi on his 22nd birthday unless he renounces the other nationality.

Is there any legal obligation to register children?

Yes (X) No ()

If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.

Section 24 of the National Registration Act 2009 ("**Registration Act**") states that the following people are obliged to register the birth of a child within six weeks of the birth.¹⁶⁸

- Father and mother;
- In default of a father and mother; the occupier of the premises in which, to his knowledge, the child is born; and
- Each person present at the birth of the child.

However, it seems likely there has been an error during the translation of section 24 and the section actually requires either the father and mother, the occupier of the premises or each person present at the birth of the child to register the birth of the child rather than requiring all of these individuals to register the birth of the same child.

Children born out of wedlock

If a child is born out of wedlock, according to section 24(3) of the Registration Act the father of the child is not bound to register the child and shall not be entered in the register as the father of the child except for where it is proven that he is the child's father in Court, or the father requests to be on the

¹⁶⁷ The Citizenship Act 1966, available at <http://www.immigration.gov.mw/images/the-citizenship-act.pdf>. Details of the categories of citizenship can also be accessed on the Website of the Department of Immigration Republic of Malawi, "Categories of Citizenship", available at <http://www.immigration.gov.mw/categories-of-citizenship.html>

¹⁶⁸ National Registration Act 2009, Gazette Notice 18 of 2015, section 24, (a copy of which is attached to this report at Appendix 1).

register, the mother agrees to this and the father acknowledges himself to be the father of the child by signing or affixing his mark to the birth report.

Children found exposed abandoned¹⁶⁹

If a living new-born child is found, according to section 26 of the Registration Act, it shall be the duty of any person finding such child and any person in whose charge such a child may be placed to give such information as the informant possesses for the purposes of registering the birth.

However, as outlined above, it seems likely there has been an error during translation of section 26 and the section actually requires the person finding the child or the person in charge of such a child to register the birth, rather than both individuals.

Does the child need to be registered within a certain amount of time from birth?

Yes (X) No ()

If yes, by when?

Registration of the child's birth should be made within six weeks of the birth, although late birth registration is also permitted upon payment of a fee.

Is a paper certificate issued as a result of the registration? Yes (X) No ()

Once a birth is registered in a health facility, hospital or district registration office, the information is sent to the District Health Office who then dispatch the data to the NRB headquarters in Lilongwe for production of a birth certificate within three weeks.¹⁷⁰

It appears from a recent news article published on 6 February 2016¹⁷¹ that despite birth certificates being created for children, hundreds of birth certificates are not being collected by their owners. The article quotes Blantyre District Assistant Registration officer, George Chitsonga, who suggests that this is due to a breakdown in communication between NRB officials and officials from health facilities in relation to arrangements for people to collect the certificates of their children. It appears that there are plans for birth certificates to soon be collected from hospitals rather than NRB offices in an attempt to address this issue.

According to section 13 of the Registration Act, every person registered shall also be issued with an identity card. In reality it appears that the implementation of this process has been slow due to a lack

¹⁶⁹The direct translation of the legislation states "Children found exposed", but it is likely this means children who has been abandoned.

¹⁷⁰All Africa, "Malawi: NRB takes birth registration to health facilities", 10 October 2015, available at <http://allafrica.com/stories/201510120764.html>

¹⁷¹The Maravi Post, "Malawi: Birth registration certificates pile up at NRB in Blantyre", 6 February 2016, available at <http://www.maravipost.com/life-and-style/odd-news/10405-malawi-birth-registration-certificates-pile-up-at-nrb-in-blantyre.html>

of funding¹⁷² and staff shortages. Towards the end of 2015 President Peter Mutharika said that the Malawi government intended to issue the first 5,000 ID cards by February 2016 on a pilot basis and that all citizens should have been issued with an ID card by 2017.¹⁷³

Different by region/area?

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

Is there a separate fee for the issuance of a paper certificate?

Yes () No (X)

There is no mention within the Registration Act of a fee for the issuance of either a birth certificate or identity card and reference is made on some websites to birth registration being free.¹⁷⁴

There is a fee of MK 2,000 (USD 2.80¹⁷⁵) for a copy of a birth certificate.¹⁷⁶

Different by region/area

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

Birth Registration Fee Yes () No (X) Conditional ()

There is no fee payable for birth registration within the first six weeks of the birth of a child.

If yes, amount in USD: _____

If it's conditional, please provide reasons/cases for exemption.

Not applicable.

¹⁷²MANA Online, Malawi News Agency, "Lack of funds delaying national registration progress", 13 June 2014, available at <http://www.manaonline.gov.mw/index.php/business/item/358-lack-of-funds-delaying-national-registration-progress>

¹⁷³Nyasa Times, "Malawi to roll out ID card project 2016", 7 November 2015, available at <http://www.nyasatimes.com/2015/11/07/malawi-to-roll-out-id-card-project-2016-mutharika/>

¹⁷⁴Maravi Post, "Malawi Government to commence compulsory issuance of birth and death certificates", 6 August 2015, available at <http://www.maravipost.com/business/development/9436-malawi-government-to-commence-compulsory-issuance-of-birth-and-death-certificates.html>

¹⁷⁵All conversions are approximate and were made at the time of writing using a commercial rate of exchange available at www.xe.com.

¹⁷⁶Website of the Department of the Registrar General, "Fees", available at <https://www.registrargeneral.gov.mw/fees.html>

Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration')

Yes (X) No ()

The Registration Act states at section 25 that late registration of a child's birth (after six weeks of the birth) will not be completed "*except upon payment of the prescribed fee*". The prescribed fee is to be stated in Regulations and we have not been able to find any currently in force.

In addition, if a change of name is required on the register, the parent or guardian of the child may within two years of the registration "*on payment of the prescribed fee*" and on providing such evidence as the district registrar thinks necessary, register the name that has been given to the child. Again, we have been unable to ascertain what the "*prescribed fee*" is.

If yes, amount in USD: _____

Requirements for Birth Registration (tick what applies):

Identification of Child's Father (X) His Nationality (X)

Identification of Child's Mother (X) Her Nationality (X)

Marital Status ()

Section 23 of the Registration Act requires that every person registering the birth of a child shall to the best of his knowledge and ability give the "*prescribed particulars*". Prescribed particulars are described within the Act as meaning in relation to birth registration "*the sex, date and place of birth*" of the child, "*the names, residence occupations and nationality of the parents*" and "*such other particulars as the Minister may prescribe*".¹⁷⁷

Are Stateless / Refugee Births Registered?

Yes (X) No ()

The UN refugee agency and the government of Malawi were working to put in place a system to record refugee births, an example of which was in the Dzaleka refugee camp.¹⁷⁸ The government have a registration process for refugees who are then provided with refugee ID cards when granted refugee status. Furthermore, UNHCR maintain a ProGres database for Malawi (image capture software) which is regularly updated with birth statistics.¹⁷⁹

¹⁷⁷National Registration Act 2009, section 2.

¹⁷⁸UNHCR, "UNHCR and Malawi register all refugees and asylum seekers", 22 November 2007, available at <http://www.unhcr.org/4745bbc74.html>

¹⁷⁹UNHCR, "Joint Assessment Mission Report: Dzaleka Refugee Camp, Malawi", 2012, p. 17, available at <http://documents.wfp.org/stellent/groups/public/documents/ena/wfp257113.pdf>

Are children of single parents registered?

Yes (X) No ()

Children of single parents are registered. Part III section 24(3) of the Registration Act where the child is born out of wedlock, the father is not required to register the birth or to be registered as the child's parent unless he voluntarily assents and the mother agrees or his fatherhood has been proven in court.

Are all children born in the territory registered?

Yes (X) No ()

Section 22 of the Registration Act states that the district registrar of each district shall keep a register, and is required to enter into the register every child birth in the district. There is no qualification that certain people should not be registered.

If no, please provide list of those not registered.

Not applicable.

Other Requirements (if none, put not applicable)

Not applicable.

Registration System Set-up (this may not be in the legal framework)

Part II of the Registration Act (contained for reference in Appendix 1 to this report) sets out the details of the registration system. It establishes a National Registration System consisting of a population register¹⁸⁰ which shall comprise the Births, Marriages and Deaths register recorded at the village, traditional authority, district and national levels.¹⁸¹

The Registration Act goes on to state that there shall be a Director and a Deputy Director of National Registration appointed by the Minister¹⁸² and that the Director may delegate any or all of his duties to a district registrar within the area of a district.¹⁸³ Every District Commissioner or Chief Executive shall perform this role for the district over which he has the authority.¹⁸⁴ It is within the Minister's powers to appoint a diplomatic or consular officer or a person attached to any Embassy Office, High Commission or Consulate or any other Malawi Government representative abroad, or a representative or another government to be district registrar for the purposes of the Registration Act.¹⁸⁵

¹⁸⁰National Registration Act 2009, section 3(1).

¹⁸¹National Registration Act 2009, section 3(2).

¹⁸²National Registration Act 2009, section 4.

¹⁸³National Registration Act 2009, section 5(1).

¹⁸⁴National Registration Act 2009, section 5(2).

¹⁸⁵National Registration Act 2009, section 6.

Two registers are to be maintained: a district register and a national register.¹⁸⁶ Both registers shall consist of two parts:

- (a) citizens of Malawi who are above the age of 16 years; or
- (b) individuals who are above the age of 16 years and who, not being citizens of Malawi, have been granted permanent residence, temporary employment or business residence in Malawi.

As the Registration Act has only recently come into force requiring universal and compulsory registration of births, marriages and deaths, there is also a provision within the Registration Act giving the power for a Director, by notice in the Gazette and any other such appropriate method, to declare any area of Malawi a specified area and require all persons within such specified area to whom the Registration Act applies (as specified in section 24 of the Registration Act) to attend before a district registrar at such place and between such dates as he may specify in such notice.¹⁸⁷ Every unregistered person must then within 14 days attend the nearest district registrar and register himself in the prescribed manner.¹⁸⁸ Every person registered under the Registration Act is then issued with an identity card.

Electronic Submission () Paper Submission () Both (X)

As stated in section 24(2) of the Registration Act, birth registration shall be effected by completing a birth report (an NR8 form) and certifying its correctness by signing, or if the individual is unable to sign, affixing a mark. The birth report must then be delivered to the district registrar of the district where the birth occurred.

It appears that electronic birth registration is being developed in Malawi with AllAfrica reporting that currently three major hospitals in Chitipa, Ntcheu and Queen Elizabeth are taking part in a pilot phase of electronic birth registration (eBR), while Bwaila Hospital in Lilongwe is the first health facility to register births electronically.¹⁸⁹

Location of registration facilities (this may not be in the legal framework)

Capital city Yes () No ()

Other cities Yes () No ()

Villages Yes () No ()

Other Districts

¹⁸⁶National Registration Act 2009, section 7.

¹⁸⁷National Registration Act 2009, section 10.

¹⁸⁸National Registration Act 2009, section 10(3).

¹⁸⁹All Africa, "Malawi: NRB takes birth registration to health facilities", 10 October 2015, available at <http://allafrica.com/stories/201510120764.html>

Each district registrar is obliged to keep and maintain a district register of those who live within their district.¹⁹⁰ Furthermore, section 37 of the National Registration Act states that the Director of National Registration must provide each district with the necessary forms, books and instructions to complete the registration process. The registration forms are available at District Registration Offices in all the District Councils and health facilities of the three pilot districts of Chitipa, Ntcheu and Blantyre.¹⁹¹ Malawi is divided into 28 districts and the legislation requires that all 28 districts maintain a register containing all births within that district. However, according to research, the widespread implementation of maintaining a register is a work in progress.

There also appears to be a push for birth registration to be undertaken in health facilities. The Assistant Registrar of the NRB for birth registration, George Chitsonga, explained that the NRB has decided to work with health facilities on this exercise because they are focal points as far as births are concerned, with 80% of babies being born in health facilities. As mentioned above, three major hospitals in Chitipa, Ntcheu and Queen Elizabeth are taking part in a pilot phase of electronic birth registration, whilst Bwaila Hospital in Lilongwe is the first health facility to register births electronically.¹⁹²

Birth Registration is required for:

Mandated birth registration is new to Malawi. Current rates of birth registration are unknown but believed to be under 20% of the population. As a consequence, birth registration is not generally needed to access services in Malawi. If it was required, the general principle of access for all peoples of Malawi to services in Malawi contained in the Constitution would not currently be achievable.

Access to education

Yes () No () Unclear (X) Law _____

We have been unable to find specific legislation relating to access to education in Malawi. However, available statistics would suggest that birth registration is not required for enrolment in state education.

Under Article 13 of the Constitution of Malawi, the State of Malawi shall provide adequate resources to the education sector "*to make education compulsory and free to all citizens of Malawi*". Furthermore, at Article 25, it is stated that "all persons are entitled to education". Therefore, it seems that a child may have to be a "citizen" to be entitled to free education. However, this is not entirely clear.

Free primary education was introduced in Malawi in 1994. The following year primary school enrolment tripled to almost 3 million. The most recent information available on attendance also

¹⁹⁰ National Registration Act 2009, section 7(2).

¹⁹¹ Face of Malawi, "Government starts issuing universal compulsory birth and death registration in three districts", 6 August 2015, available at <http://www.faceofmalawi.com/2015/08/govt-starts-issuing-universal-compulsory-birth-death-registration-in-three-districts/>

¹⁹² All Africa, "Malawi: NRB takes birth registration to health facilities", 10 October 2015, available at <http://allafrica.com/stories/201510120764.html>

estimates an 84.3% male and 86.2% female net attendance ratio at primary school.¹⁹³ However, in 2011, completeness of birth registration in Malawi was predicted to be as low as 2.3%.¹⁹⁴ All children taking part in the latest survey on primary school attendance (from 2013) would have been born before this time, when completeness may even have been lower. These figures imply that birth registration is not required for access to primary education in Malawi.

Obtaining a primary school diploma

Yes () No () Unclear (X) Law _____

We have been unable to obtain any legislative or education policy provision which suggests that a birth certificate is required in order to obtain a primary school diploma. From the evidence we have uncovered in relation to the question above (especially with regard to the Constitution of Malawi), we consider it unlikely that children (with or without a birth certificate) would be permitted to enter the education system without also being permitted to obtain a Primary School Leaving Certificate (Malawi's form of primary school diploma).

Obtaining a secondary school diploma

Yes () No () Unclear (X) Law _____

Access to private education seems to be largely unregulated in Malawi, so long as the school is registered with the state and provided standards are "*not inferior to official standards in state schools*".¹⁹⁵ It may be the case that some schools are provided for citizens only, however this would have to be examined on a case by case basis.

From research outlined in "*Access to Education*" above, it seems that a birth certificate is not required in order to obtain a secondary school diploma. However, we have not uncovered any legislative provisions or specific policies in this regard. As outlined above, some private secondary schools may have their own requirements in terms of enrolment, which will be specific to their institution.

In terms of state secondary schools, a central public body will often select children for particular secondary schools according to their exam results.¹⁹⁶ Therefore, it would seem that once a child has gained access to primary education and has obtained a Primary School Leaving Certificate, he or she will not be prejudiced from entering into state (and possibly private) secondary education, or sitting secondary school examinations.

¹⁹³This ratio is formulated by research conducted by UNICEF, based on housing surveys of the percentage of children within a certain age category who attend primary school. See: http://www.unicef.org/infobycountry/malawi_statistics.html

¹⁹⁴World Bank, "Completeness of birth registration(%)", available at <http://data.worldbank.org/indicator/SP.REG.BRTH.ZS/countries/1W-MW?display=graph>

¹⁹⁵Constitution of Malawi, Article 25, available at <http://www.wipo.int/edocs/lexdocs/laws/en/mw/mw002en.pdf>

¹⁹⁶StarFishers, "Secondary Education in Malawi", available at <http://www.starfishers.net/secondary-education-in-malawi/>

Access to health (emergency services only)

Yes () No () Unclear (X) Law _____

We have been unable to find specific legislative provisions relating to access to health care services in Malawi.

The Constitution of Malawi, at Articles 13 and 30,¹⁹⁷ refers to all peoples of Malawi having access to adequate health care services, without mention of the need for birth registration. Therefore, in principle it appears that birth registration is not necessary.

Health care services at primary (including emergency), secondary and tertiary (specialist) levels in Malawi are delivered by a mixture of state facilities under the auspices of the Ministry of Health, private facilities and religious or cultural groups (including traditional healers). There appears to be no cohesive legislative framework for regulating all of these providers or regulating access to the services they provide.

Access to health (primary health services only)

Yes () No () Unclear (X) Law _____

Please refer to the answer to "Access to health (emergency services only)" as the same legal provisions apply.

Access to health (all services)

Yes () No () Unclear (X) Law _____

Please refer to the answer to "Access to health (emergency services only)" as the same legal provisions apply.

Access to social security programmes / cash benefits

Yes () No () Unclear (X) Programme name _____ Law _____

The provision of social welfare programmes is very limited in Malawi, with no comprehensive statutory social welfare scheme in place. The Employment Act 1999¹⁹⁸ provides that all employees are entitled to a severance payment upon termination of their employment, including for retirement reasons, unless they are dismissed on conduct grounds. All employees are covered automatically. It is not known if, to access employment in the first place, evidence of identity by way of a birth certificate is mandatory.

The Pension Act 2010¹⁹⁹ requires every employer to enrol their employees (subject to some prescribed exemptions) into the national pension scheme and to take out a life insurance policy for

¹⁹⁷The Constitution of Malawi

¹⁹⁸Employment Act 1999 (No 6 of 2000), available at <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/58791/65218/E00MWI01.htm>

¹⁹⁹Pension Act 2010 (No 6 of 2011), available at http://www.malawilii.org/files/mw/legislation/act/2011/6/pensions_act_2011_1_pdf_86013.pdf

their benefit. Again, the legislation applies to all employees in Malawi, but it is not clear if a birth certificate is required at the outset to gain employment.

Nationality

Yes (X) No () Law Citizenship Act 1966²⁰⁰

In certain circumstances, a birth certificate is required to acquire Malawian citizenship.

If on 5 July 1966 a person had Malawian citizenship, that citizenship continues irrespective of whether a birth certificate is held.

If a person is born in Malawi after 5 July 1966 and one or both of his parents are Malawi citizens and of African race then he acquires Malawian nationality by birth irrespective of possessing a birth certificate.²⁰¹ Similarly, if he is born outside of Malawi to one or both parents who are Malawi citizens by birth and of African race, he acquires citizenship by descent.²⁰²

In all other cases, to acquire citizenship of Malawi requires a birth certificate or passport (which requires production of a birth certificate). This includes registration of a minor child of a Malawi citizen and restoration of citizenship following deprivation or renunciation.

Identification card

Yes () No (X) Law National Registration Act 2009

Section 13 of the Registration Act provides that all persons registered under the Registration Act (whether by birth registration or under the provisions to require others to attend for registration) will be issued with a national identity card.

Identification cards will be issued to those over 16 years of age registering under the Registration Act. A birth certificate is not required to register under section 8(2) of the Registration Act.

Identification cards can be issued to aliens with a permit to reside in Malawi who are required to register under the Registration Act. This does not require a birth certificate.

Passport

Yes () No () Unclear (X) Law _____

The Immigration Service of Malawi provides information on its website regarding the process and documentation required for passport applications. Proof of identity is required but this is described as "*Birth Certificate, Academic Certificate or Voter's Registration Certificate or Official letter from the employer*".²⁰³

²⁰⁰The Citizenship Act 1966

²⁰¹The Citizenship Act 1966, section 4

²⁰²The Citizenship Act 1966, section 5

²⁰³Website of the Department of Immigration, "Types of Passport", available at <http://www.immigration.gov.mw/types-of-passports.html>

It is not known if an academic certificate, voter's registration certificate or official letter from an employer can be obtained without the need for a birth certificate.

Other (Please specify e.g. enrolment for social protection programme/ food bank)

Malawi is a developing country without historic regulation of population registration. Consequently, many adult citizens of Malawi do not have birth certificates and as such holding one is not generally a pre-requisite for accessing social or welfare services, whether provided by public, private or religious bodies.

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- Immigration Act 1964, available at <http://www.immigration.gov.mw/images/the-immigration-act.pdf>
- The National Registration Act 2009, a copy of which is attached to this report at Appendix 1.
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Appendix 1

NATIONAL REGISTRATION ACT 2009

Part I- PRELIMINARY

This Act may be cited as the national Registration Act, 2009 and shall come into operation on such a date as the minister shall appoint by notice in the *Gazette*.

Short title and
commencement

In this Act, unless the context otherwise requires-

Interpretation

'Authorized person' means any person or class of persons prescribed by the Minister;

'birth report' means a report of birth containing the prescribed particulars and made in the prescribed form;

'death report' means a report of death containing the prescribed particulars and made in the prescribed form;

'district register' means the register maintained by each district registrar;

'Director' means the Director of national Registration appointed under section 4;

'identity card' means an identity card issued in accordance with the provisions of this Act;

'marriage report' means a report of marriage containing the prescribed particulars and made in the prescribed form;

'national register' means the register maintained by the Director under section 7;

'prescribed particulars' means –

as to any birth, the sex, name, date and place of birth, the names, residence, occupations and nationality of the parents and such other particulars as the Minister may prescribe;

as to any marriage, the names, nationality, conditions, occupations, ages, dwelling or a place of abode of the bride- groom and bride and such other particulars as the Minister may prescribe; and

as to any death, the name age, sex, place of residence, length of residence in Malawi, occupation and nationality of the deceased and the date, place and cause of death, and such other particulars as the minister may prescribe;

'registered person' means a person registered under section 7 and section 9;

'specified are means' an area declared as such by the Director in accordance with section 10.

PART II- NATIONAL REGISTRATION

- (1) There shall be a National Registration System consisting of population Register established under this Act.

Establishment of
National Registration
System

- (2) The population register shall comprise the Births, Marriages and Deaths Registers recorded at the village, traditional authority, district national levels.

There shall be a Director and Deputy Director of national Registration appointed by the Minister.

Appointment of Director
and Deputy Director

- (1) The Director may delegate any or all of his duties to be performed by a district registrar within the area of a district.

Appointment of District
registrars

- (2) Every District Commissioner or Chief Executive, as the case may be, shall be the registrar for the district over which he has the authority as a District Commissioner or Chief Executive, as the case may be:

Provided that the Minister may appoint any other person to be the district registrar for a District, or a specified part of a District, in place of, or in addition to the District Commissioner or Chief Executive, as a case may be.

The Minister may appoint a diplomatic or consular officer or a person attached to any Embassy Office, High Commission or Consulate or any other Malawi Government representative abroad or a representative of another government or any other suitable person to be district registrar for the purpose of this Act in respect of a district outside Malawi to be specific in the instrument of his appointment.

Appointment of district
registrars abroad

- (1) The Director shall keep or cause to be kept and maintained a national register of all persons-

National register

- (a) Who are citizens of Malawi and of or above the age of 16 years; or
- (b) Who are of or above the age of 16 years and who, not being citizens of Malawi, have been granted permanent residence permit, temporary employment permit or business residence permit under the immigration Act to reside in Malawi.

Cap 15:03

- (2) Every District registrar shall keep and maintain a district register of those persons who live within his district and who qualify for registration under paragraphs (a) and (b) of subsection

(1) and to whom an identity card is issued.

- (1) The national register and the district registrar shall consist of two parts, of which part 1 shall be register of citizens of Malawi who meet the provisions of section 7 (1) (a) and Part II shall be a register of non-Malawian citizens, lawfully resident in Malawi, who meet the provisions of section 7 (1) (b) .

Contents of National register

- (2) The national register shall consist of the following particulars relating to each applicant-

- (a) the applicant's full name;
- (b) the applicant's principal place of residence in Malawi;
- (c) the names of the applicant's parents;
- (d) the applicant's permanent home address (Village, T.A. and District; plot number, township and local authority);
- (e) the applicant's sex;
- (f) the applicant's date of birth;
- (g) the applicant's place of birth;
- (h) the applicant's marital status;
- (i) the date of registration of the applicant and the registration number;
- (j) in case of an applicant who is not a citizen of Malawi, his nationality;
- (k) height;
- (l) colour of eyes;
- (m) fingerprints;
- (n) photograph;
- (o) passport number, if any;
- (p) special observations, if any; and
- (q) such other particulars as the Minister may prescribe.

- (1) Subject to such regulations as shall be made by the Minister, every person of or above the age of 16 years-

- (a) who is a citizen of Malawi; or
- (b) who, not being a citizen of Malawi, has been granted permanent residence permit, temporary employment permit, or business residence permit under the immigration Act to reside in Malawi,

Cap. 15:05

Shall qualify to be registered under this Act and shall apply to the district registrar in the area in which he ordinarily resides for registration within one month of his acquiring the relevant qualification as set out in this section.

- (2) Every applicant shall submit to having his finger print and photograph taken by the district registrar or a person acting under his authority.
- (1) The Director may, by notice in the Gazette and such other manner as he may consider suitable to bring the contents of the notice to persons affected, declare any area of Malawi to be a specified area and require all persons within such specified area to whom this Act applies to attend before a district registrar at such place and between such dates as he may specify in such notice.
- (2) Every person so required shall attend before the district registrar and shall register himself by providing the particulars described in section 8 and shall permit his photograph and fingerprints to be taken in such manner as may be prescribed.
- (3) Every unregistered person who-
 - (a) being a person to whom this Act applies enters any specified area;
 - (b) being within any specified area, becomes a person to whom this Act applies,

Registration requirement made through notice in the *Gazette*

shall within fourteen days, attend before the nearest district registrar and register himself in the manner prescribed in subsection (2)

A district registrar may require any person applying for registration under this act to provide such documentary information as shall, in the opinion of the district registrar, be necessary to establish the truth of the information stated in the application form.

Additional information

- (1) Every district register shall, where he is satisfied that the applicant qualifies for registration, forward the application, and the photograph and record of fingerprints relating to that application, to the Director.
- (2) The Director shall, if he is satisfied that the applicant qualifies for registration, issue an identity card to the applicant.
- (1) Every person registered under this Act shall be issued with an identity card.
- (2) An identity card issued to any person who is not a citizen of Malawi shall be valid for such period for which he is, at that time, entitled under the immigration Act, and such person shall be issued with a new identity card to cover any period for which his stay is extended.

Processing a qualified application

Issue of identity card

Cap 15:03

- (3) Where applicable, the identity card shall be renewed by issuing a new identity card with an up-to-date photograph and other particulars relating to the holder of the card.

The Minister may prescribe the size and description of the identity card and the particulars it shall contain, and further may prescribe different identity cards for the different categories of persons referred to under section 7.

Forms of identity cards

- (1) Every person issued with an identity card under this Act shall, to the best of his ability, ensure safety and preservation of that card
- (2) Where an identity card is lost, damaged or destroyed, the person concerned shall immediately inform the district registrar of the area in which he is registered and provide him with any information at his disposal to satisfy the district registrar that the identity card was in fact not lost, damaged or destroyed through the fault or neglect of the person concerned.
- (3) The district registrar shall require the person whose identity card is lost, damaged or destroyed to execute an affidavit to the effect that it was not lost, damaged or destroyed through the fault or neglect of the person making the affidavit.
- (4) The Minister may prescribe the form of an affidavit to be executed under subsection (3)
- (5) Any person who finds or unlawfully comes into possession of an identity card which was not issued to him shall, without undue delay, return it to the person to whom it was issued or forward it to the nearest district registrar.
- (1) Where a district registrar is satisfied that the loss, damage or destruction of an identity card occurred through no fault or neglect of the person concerned, he may recommend to the Director that the new identity card be issued without payment of any fee or penalty, and shall cancel the registration in respect of the identity card that was lost, damaged or destroyed but in all other cases he shall levy the prescribed fee.
- (2) Where the Director issues a new identity card in place of a damaged identity card, he shall ensure that the damaged identity card is destroyed and the national register and the district register shall be amended accordingly.
- (3) Where the Director issues a new identity card in place of an identity card that was lost he shall inform all the district registrars and such other authorities, as the minister may prescribe, of the loss as soon as may be practicable.

Replacement of lost damaged or destroyed identity cards

Identity card *Prima facie* Proof for contents of National Register

An identity card shall be *prima facie* proof of the particulars of an individual contained in the National register.

Where the particulars relating to any person, and to which he has sworn in his application for registration change after he has been issued with an identity card, such person shall, within 30 days of such change, inform the district registrar of the area in which he is registered of the change.

Change in Particulars relating to Registered Person

Where a district registrar is informed of any change in particulars relating to a registered person, he may, if he is of the opinion that the change does not materially affect registration, note the change in his register and cause the change to be recorded in the national register by the Director.

Immaterial change

- (1) Where the district registrar is of the opinion that any change in the particulars relating to a registered person materially affect his registration, he shall record the change and notify the Director of the circumstances and recommend that the person concerned should be issued with a new identity card.
- (2) The Director shall, if he is satisfied that the change materially affects the registration of a person, cancel the identity card issued to the person and issue a new identity card to him.
- (3) The particulars relating to the new identity card and its holder shall be recorded in the national register and the district register of the area in which that person is registered.

Material change

- (1) Every registered person may, whenever he is satisfied that his appearance has changed so as to make it likely that his identity as certified by the identity card may be questioned, apply to the district registrar of the area in which he is registered for the issue of a new card with a more recent photograph and shall, when issued with a new identity card by the Director, surrender his existing identity card to the district registrar to be cancelled and destroyed.
- (2) The district registrar of the area in which the person is registered and the Director shall cause the change to be recorded in the relevant registers.

Up-dating Photograph

PART III - REGISTRATION OF BIRTHS AND ADOPTED CHILDREN

The district registrar of each district shall keep a register, and shall enter there in every birth of a child born alive within his district after a commencement of this Act, whereof the prescribed particulars are reported to him.

Register of births to be kept in every district

Every person registering the birth of a child shall, to the best of his knowledge and ability, give the prescribed particulars, and shall certify to their correctness either by signing, or, if he be illiterate, by fixing his mark to the register or, if the

Mode of registration of births

registration is effected without personal attendance, by signing, or affixing his mark to, the prescribed form in which the prescribed particulars are reported to the district registrar.

- (1) In the case of every child born alive after the commencement of this Act, it shall be the duty of the father and mother, and in default of the father and mother, of the occupier of the person in which to his knowledge such child is born, and of each person present at the birth and of the person having charge of such child, to, register the birth within six weeks of the birth. Duty to register births
- (2) Such registration shall be effected by completing a birth report in respect of such birth and by certifying its correctness by signing or, if unable to sign, by affixing the mark of the person effecting registration to the birth report and delivering it to the district registrar of the district where the birth occurred.
- (3) No person shall be bound as father to register the birth of the child born out of wedlock, and no person shall be entered in the register as the father of such child except
 - (a) where it is proven in court; or
 - (b) at his own request, and with the agreement of the mother of the child, upon his acknowledging himself to be the father of the child, and signing, or affixing his mark to the birth report as such.

The district registrar shall not enter in the register the birth of any child after six weeks from the date of birth except upon payment of the prescribed fee.

Registration of birth after six weeks from birth

If any living new-born child is found exposed, it shall be the duty of any person finding such child, and of any person in whose charge such a child may be placed, to give such information as informant possesses for the purpose of registering such birth.

Exposed child

Where the birth of any child has been registered before it has received a name, or the name by which it has registered is altered, the parent or guardian of such child may, within two years of the registration, on payment of the prescribed fee, and on providing such evidence as the district registrar may think necessary, register the name that has been given to the child.

Change of name

- (1) The Director shall keep the Adopted Children Register and enter therein such entries as may be directed to be made therein by the adoption of a child order, but no other entries. Registration of an adopted child
- (2) Every adoption order shall contain a direction to the Director to make in the Adopted Children Register an entry recording the adoption of a child in the prescribed form.

PART IV - REGISTRATION OF MARRIAGES

The district registrar of each district shall keep a register and enter therein every marriage that occurs within his district after commencement of this Act.

Register of marriages to be kept in every district

Every person registering a marriage shall, to the best of his knowledge and ability give the prescribed particulars, and shall certify to their correctness, either by signing or, if he be illiterate, by affixing his mark to the register, or, if the registration be effected without personal attendance, by signing or affixing his mark to the prescribed form on which the prescribed particulars are reported to the district registrar.

Mode of registration of marriages

- (1) In the case of persons getting married after the commencement of this Act, it shall be the duty of the persons who get married to register their marriage within three months after the officiation of their marriage.

Duty to register marriages

- (2) Registration of the marriage shall be effected by completing a prescribed form or delivering a copy of the marriage certificate, as the case may be, to the district registrar.

The district registrar shall not enter in the register any marriage after three months from the date of the officiation of the marriage except upon payment of the prescribed fee.

Registration of marriage after three months from marriage

PART V - REGISTRATION OF DEATH

The district registrar of each district shall keep a register, and shall enter therein every death occurring within his district after the commencement of this Act whereof the prescribed particulars are reported to him.

Register of deaths to be kept in every district

Every person registering a death shall, to best of his knowledge and ability, give the prescribed particulars, and shall certify to their correctness, either by signing, or, if he be illiterate, by affixing his mark to the register, or, if the registration be effected without personal attendance, by signing or affixing his mark to the prescribed form on which the prescribed particulars are reported to the district registrar.

Mode of registration of deaths

- (1) In the case of every person dying after the commencement of this Act, it shall be the duty of the nearest relatives of such person who were present at his death or in attendance during his last illness, and in default of such relatives, of every other relative dwelling within the district, and in default of such relatives, of each person present at the death, and of the occupier of the house in which to his knowledge such death took place; and in default of the persons herein before mentioned, of any inmate of the house, or of any person finding or taking charge of the body of such person, or causing such person to be buried, to register the death within six weeks after the death or finding of the body, or where the district

Duty to register death

registrar is satisfied that from any other cause registration could not be effected within the said period, and that no undue delay has taken place, within six months after death or finding of the body.

- (2) Such registration shall be effected by completing a death report and by certifying its correctness by signing, or, if unable to sign, by affixing the mark of the person effecting registration to the death report delivering it to the district registrar of the district where the death occurred.
- (3) For the purpose of this section “nearest relatives” mean surviving spouse, if any, parents, child and siblings.

The district registrar shall not enter in the register a death more than six weeks after the death of the death, except upon payment of the prescribed fee.

Registration of deaths after six weeks from death

PART VI - RECORDS AND RETURNS OF BIRTHS, MARRIAGES AND DEATHS

- (1) The Director shall be responsible for registration of births, marriages and deaths.
- (2) It shall be the duty of the Director to compile, after the close of each year, a summary of the births, marriages and deaths of such year, and a report on the increase or decrease of the population of Malawi, and on any special causes appearing to affect the same.
- (3) The Director shall have the duty of all filled registers and of all monthly returns made by each district registrar.
- (4) It shall be the duty of the director to provide each district registrar with such books and forms as may be required, and with such instructions as he may consider necessary for the registration of births, marriages and deaths in his district.

Duties of Director in respect of births, etc

- (1) Every district registrar shall forward to the Director monthly returns in the prescribed form showing the births, marriages and deaths registered in his district during such month, and shall also forward to him all such registers as soon as the space in the registers for the registration has become exhausted.
- (2) Notwithstanding subsection (1), the Director may direct that the district registrar whose district is outside Malawi need not maintain any register or that he shall furnish to the Director such returns or extracts at such intervals of time and verified in such a manner as the Director may deem suitable, or shall carry out duties of a district registrar with such variations as may be appropriate in the circumstances.

Monthly and other returns

- (1) The Director shall cause to be prepared from the returns made to him

Indexes searches and

alphabetical indexes of the births, marriages and deaths registered.

certified copies

- (2) Any register, return or index in the custody of the Director shall, on payment of the prescribed fee, be open to inspection subject to such conditions as the Director may direct:

Provided that a person grieved by conditions imposed by the Director may apply to the High Court for Judicial review and the high Court may make such order regarding inspection as it deems proper.

- (3) The Director shall, on payment of the prescribed fee, furnish a certified copy of any entry or any return in his custody:

Provided that any person shall, on payment of the prescribed fee, be entitled to obtain from the Director a short certificate of birth of any person in the prescribed form and containing such particular as may be prescribed and such certificate shall not include any particulars relating to parentage or adoption.

- (4) The copy of any entry in any register or return certificate under the hand of the Director to be a correct copy shall be prima facie evidence in court of the dates and facts therein contained.

PART VII - MISCELLANEOUS PROVISIONS

The following provisions shall apply to errors in the national register and in any register of births, marriages and deaths-

Correction of errors in registration

- (a) no alteration in any register shall be made except as authorized by this Act;
- (b) any clerical error which may from time to time be discovered in any register may be corrected by any person authorized in that behalf by the Director:
- (c) Any error of fact or substance in any such register may be corrected by the Director by making an additional entry in the registered (without any alteration of the original entry), upon payment of the prescribed fee and upon production to him by the person requiring such error to be corrected of statutory declaration, setting forth the nature of the error and the true facts of the case, made by two credible persons having knowledge of the truth of the case.

Delivery of a birth report, marriage report, or death report, as the case may be, to a person for the time being employed by the local authority of the area in which the birth, marriage or death occurred shall deemed to constitute delivery of the report to the district registrar of the district in which such area is situated.

Delivery of birth report, etc

- (1) Any person who

Offences and penalties

- (a) is of or above the age of 16 years and qualifies to be registered under this Act but who fails to register within the time prescribed by this Act;
- (b) Wilfully obstruct the Director or district registrar in the execution of his duties under this Act;

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- (c) Wilfully destroys or mutilates or attempts to destroy or mutilate any identity card;
- (d) unlawfully deprives or dispossesses any person of his identity card;
- (e) Uses any identity card other than the card issued to him intending that some other person shall be led to believe that he is the person shown on the card he is using;
- (f) is knowingly in possessing of an identity card in which any lawfully entry, alteration or erasure has been made or of any document so closely resembling an identity card as to be calculated to deceive;
- (g) fails to register the birth of child, a marriage or death, which is his duty to do so;
- (h) is in possession of more than one identity card purporting to show his identity; or
- (i) permits any other person to use the identity card issued to him,

Commits an offence and upon conviction shall be liable to a fine of one million Kwacha (K1,000,000) and to imprisonment for five (5) years.

Any person, who-

Forgery, false
information and undue
influence

- (a) furnishes false information or makes any statement in his application for registration or in any affidavit sworn under this Act;
- (b) forges any document for the purposes of obtaining registration under this Act;
- (c) in any way seeks to illegally influence the decision of a district registrar;
- (d) being already registered, applies for registration; or
- (f) being in possession of any identity card, applies for a new card falsely alleging that his identity card was lost or destroyed,

Commits an offence and upon conviction shall be liable a fine of one million

Kwacha (K 1,000,000) and imprisonment for five (5) years.

- (1) Subject to subsection (2), no person shall disclose to any other person information recorded in any register, document or proof of registration, except for purposes of this Act or any judicial proceedings or the performance of his functions in terms of any law, and no person to whom any such information has to his knowledge been disclosed in contravention of this section shall disclose such information to any other person.

Secrecy

- (2) The Minister may furnish any information in relation to any person whose name or particulars are registered under this Act to any Ministry, local authority or body established by or under any law for any purpose of that Ministry, local authority or body.

Any document purporting to be signed by the Director or a district registrar or any officer authorized by him in writing, certifying a copy or extract of any record kept by the Director or district registrar under this Act shall, in any prosecution for an offence under this Act, be *prima facie* evidence of the facts stated therein, and, if stated to be signed by an officer authorized by the Director or district registrar, shall, unless the contrary be proved, be deemed to be signed by the officer so authorized without production of proof of such authorization.

Evidence

No claim shall lie against the Government, the Minister, the Director or any district registrar or public officer for anything done in good faith and without negligence under the powers conferred upon him by this Act.

Immunity

- (1) The Minister may make regulations for the better carrying out of the purposes of this Act.

Regulations

- (2) Without prejudice to the generality of subsection (1), the regulations may make provision for-

- (a) the form of the application for registration;
- (b) the additional particulars that may be required of an applicant for registration;
- (c) the form of the identity card or cards that may be issued under this Act and the particulars each shall contain;
- (d) the form of the affidavit to be executed by a person whose identity card has been lost, damaged or destroyed;
- (e) the fees that may be levied under this Act;
- (f) the authorities that shall be informed by the district registrar of the loss of an identity card;

- (g) the procedures to be followed in correcting errors or issuing replacement identity cards;
- (h) the persons who shall be authorized persons for the purpose of this Act;
- (i) the place in each district and the hours at which births, marriages and deaths may be registered, and registers, returns and indexes kept open for inspection;
- (j) the conditions under which, and the mode in which, registration may be effected without personal attendance;
- (k) the duties of the district registrars;
- (l) the inspection of registers, returns, indexes and the provision of certified copies;
- (m) the places at which and period within which shall be registered births and deaths occurring on boards ships and aircraft, registered or unregistered, while within the territorial waters air space of Malawi;
- (n) reports of births or deaths to be made by the officer or other person in charge of a hospital, clinic or other place where medical service is provided;
- (o) The role of local and traditional authorities in facilitating registration of persons and registration of births, marriages and deaths under this Act; and
- (p) All other matters necessary for the carrying out of the provisions of this Act.

- (3) Any regulation made under this Act may, notwithstanding the provision of section 21 (e) of the General Interpretation Act, prescribe a fine up to one hundred thousand kwacha (K100,000.00) and imprisonment for up to (1) year for an offence committed against any provision of such regulation

Cap. 1:01

The Births and Deaths Registration Act is repealed.

Repeal and savings
Cap. 24:04

- (2) Any subsidiary legislation made under the Births and Deaths Registration Act repealed by subsection (1) and in force immediately before the coming into force of this Act, shall so far as it is not inconsistent with the provision of this Act, continue in force as made under this Act.
- (3) Any birth or death registered under the law repealed under subsection (1) shall, notwithstanding the repeal of the law, be deemed to have been registered under this Act.

Cap. 24:01

- (4) The Registrar General shall deliver or transmit to the Director any register, record or document in the custody or control of the Registrar General by virtue of the law repealed under subsection (1) .

Passed in Parliament this nineteenth day of November, two thousand and nine.

M. M. KATOPOLA

Clerk of Parliament

SOLOMON ISLANDS

Key points

- Birth registration is compulsory and parallel birth registration systems co-exist for the registration of nationals and for non-nationals.²⁰⁴
- Registration of births is free of charge, although the logistical cost of travel to the capital to register in person acts as a barrier to universal registration.
- Birth registration is not a pre-requisite to access education in the Solomon Islands and there are no express requirements for birth registration with respect to any other key services.

Name of official authority in charge of registering a child's birth:

The Solomon Islands Civil Registry Office under the Ministry of Home Affairs and Ministry of Health and Medical Services.

Where is the civil registry located in the government?

- () Ministry of Justice
- () Ministry of Interior
- () Electoral Agency
- () Independent Entity
- (X) Other - Ministry of Home Affairs and Ministry of Health and Medical Services

Law and other relevant instruments:

Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?

The Solomon Islands applies *jus sanguinis* in accordance with Chapter III of the Constitution of the Solomon Islands (the "**Constitution**").²⁰⁵ Both children born within the Solomon Islands and those born outside the Solomon Islands to citizens will be citizens of the Solomon Islands.

Article 22 of the Constitution sets out which persons are entitled to be registered as citizens to persons on or after Independence Day (7 July 1978):

"22. Every person born on or after Independence Day, whether within or outside Solomon Islands, shall become a citizen of Solomon Islands at the date of his birth if at that date either of his parents is, or would but for his death have been, a citizen of Solomon Islands".

²⁰⁴UNICEF, "Case Study on Narrowing the Gaps in Birth Registration: Born Identity Project Solomon Islands" available at http://www.unicef.org/pacificislands/Case_Studies_.pdf

²⁰⁵The Constitution of the Solomon Island 1978, Chapter III, available at http://www.paclii.org/sb/legis/consol_act/c1978167

Article 20 sets out which persons are eligible to become citizens on Independence Day:

"20(1)

- a) *Every person who was immediately before Independence Day [being 7 July 1978] an indigenous Solomon Islander [meaning any person who is or one of whose parents is or was, a British protected person and of a group, tribe or line indigenous to Solomon Islands] became a citizen of Solomon Islands on Independence Day;*
- b) *Every person who was born in Solomon Islands before Independence Day and who has or had two grandparents who are or were members of a group, tribe or line indigenous to Papua New Guinea or the New Hebrides shall become a citizen of Solomon Islands on Independence Day;*

(2) Every person who before Independence Day made an application to the Government for citizenship of Solomon Islands who at the time of making such application possessed any of the following qualifications became a citizen of Solomon Islands on Independence Day.

(3) The qualifications referred to in subsection (2) of this section and subsection (1) of the next following section are that the person concerned, not being an indigenous Solomon Islander, is:

- a) *a woman married to an indigenous Solomon Islander; or*
- b) *a citizen of the United Kingdom and Colonies or a British protected person who was born in the Solomon Islands; or*
- c) *a citizen of the United Kingdom and Colonies or a British protected person having acquired such status under the British Nationality Acts 1948 to 1965 by virtue of his having been naturalised or registered under those Acts, or naturalised as a British subject before 1949, by the Governor of the former protectorate of the Solomon Islands; or*
- d) *a citizen of the United Kingdom and Colonies or a British protected person whose father possesses, or at his death possessed, one of the qualifications specified in paragraph (b) or (c) or (d) of this subsection; or*
- e) *a woman who has been married to a person who possesses, or at his death possesses, one of the qualifications specified in paragraph (b) or (c) or (d) of this section; or*
- f) *a citizen of the United Kingdom and Colonies or a British protected person who was deemed to belong to Solomon Islands because such person:-*
 - i. *has lawfully resided in Solomon Islands for any period of seven years during which he has not been absent therefrom for a period or periods amounting in all to more than eighteen months and since the completion of such period of residence has not been ordinarily resident continuously for a period of two years or more in any other territory within the Commonwealth in circumstances in which he has acquired or retained a right of residence in that territory; or*
 - ii. *is the wife of a person to whom the foregoing subparagraph applies not living apart from such person under a decree of a court or a deed of separation; or*

- iii. *is the Child, step-child or child adopted in a manner recognised by law under the age of eighteen years of a person to whom either of the foregoing subparagraphs applies".*

Article 21(1) of the Constitution sets out those persons who are entitled to be registered as citizens after Independence Day:

"21(1) Every person who immediately before the Independence Day possessed any of the qualifications specified in subsection (3) of the preceding section [section 20(3) of the Constitution (described above)] and who within the prescribed period [period beginning on the Independence Day and expiring two years thereafter] has made, or been included in, an application to the Government for citizenship of Solomon Islands shall be registered as a citizen of Solomon Islands".

Is there any legal obligation to register children?

Yes (X) No ()

If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.

Two parallel birth registration systems co-exist in the Solomon Islands, operating largely in isolation from one another, one for the registration of nationals and one for non-nationals.²⁰⁶

Pursuant to section 9(1) of the Births and Deaths (Registration) Act 1988 (the **"Registration Act 1988"**), *"a responsible person shall, as soon as reasonably practicable after the birth of a child, report the birth to the Registrar"*.²⁰⁷

It is an offence not to comply with the requirement to report the birth of a child under section 9(1) or to knowingly provide information which is false in the report.²⁰⁸ A person found guilty of such offences could be liable to a fine of one hundred dollars, or imprisonment for six months, or both.

The Registration Act 1988 relates exclusively to registration of indigenous Solomon Islanders and section 2 of that Act states that *"this Act does not apply to a person whose birth or death is required to be registered under the Births, Marriages and Deaths Registration Act"*.

The Births, Marriages and Deaths Registration Act 1896 (the **"Registration Act 1896"**) relates to the recording of non-indigenous births.²⁰⁹ Section 11 of that Act states that the Minister shall keep books for the recording of births, marriages and deaths of foreigners occurring within the limits of the Registration Act 1896.

²⁰⁶ UNICEF, "Case Study on Narrowing the Gaps in Birth Registration: Born Identity Project Solomon Islands" available at http://www.unicef.org/pacificislands/Case_Studies_.pdf

²⁰⁷ Births and Deaths (Registration) Act 1996, Chapter 168 of the Consolidated Laws of the Solomon Islands 1996 Edition, section 9(1), available at www.pacii.org/sb/legis/consol_act/bada301.rtf

²⁰⁸ Births, Marriages and Deaths Registration Act 1896, section 13 and 14, available at http://www.pacii.org/sb/legis/consol_act/bmadra383/,

²⁰⁹ Births, Marriages and Deaths Registration Act 1896, Chapter 169 of the Consolidated Laws of the Solomon Islands 1996 Edition, available at http://www.pacii.org/sb/legis/consol_act/bmadra383/

Section 16 of the Registration Act 1896 states that it is an offence if any person refuses or neglects to give any notice or information required by the Act, including notice of the birth of a child, or wilfully makes or causes to be made any false statement of any of the particulars required to be registered. Anyone found guilty of such an offence would be liable to a fine of one hundred dollars or to imprisonment for six months.

Does the child need to be registered within a certain amount of time from birth?

Yes () No (X)

If yes, by when?

There is no set period of time specified in the legislation in which a birth must be registered. Section 9(1) of the Registration Act 1988 states that the birth must be reported as soon as reasonably practicable. Similarly, section 11 of the Registration Act 1896 states that the Minister shall record the birth as soon as possible after being informed of any such birth.

However, please note that a birth that is registered after the child's fifth birthday is legally deemed a late registration.²¹⁰

Is a paper certificate issued as a result of the registration?

Yes (X) No ()

A paper birth certificate is issued by the Civil Registration Office, part of the Ministry of Home Affairs, after the birth is registered.²¹¹

Different by region/area?

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

Is there a separate fee for the issuance of a paper certificate?

Yes () No (X)

During the course of this research we have not found anything to suggest there is a fee for receiving a paper birth certificate and have not found anything to confirm whether there is a charge for issuing a replacement birth certificate.

²¹⁰ UNICEF, "Request for Proposal - Solomon Islands Civil Registration System", p, 15 available at <http://www.unicef.org/pacificislands/RFP.pdf>

²¹¹ UNICEF, "Specimen birth certificate", available at http://www.unicef.org/pacificislands/birth_certificate-uav2.pdf

Different by region/area

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

Birth Registration Fee

Yes () No (X) Conditional ()

It is assumed that there is no fee to register the birth of a child. In the course of this research, nothing has been found which contradicts the above statement that birth registration is free.

Nevertheless, it is important to consider the logistical costs of birth registration. An article in the Solomon Times dated 16 September 2015²¹² sets out the reasons for centralising the birth registration process in Solomon Islands. Those living in remote island communities (80% of the population) needed to travel to the capital city, Honiara, to register the birth of a child. Therefore, whilst the service to register the birth of a child is free, the cost and logistics of travel could be a serious impediment for registering the birth of a child.

If yes, amount in USD: _____

If it's conditional, please provide reasons/cases for exemption.

Not applicable.

Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration')

Yes () No (X)

During the course of this research nothing has been found to suggest that there is a fee for late registrations.

Nevertheless, under the Registration Act 1988 it is an offence to not register a birth with the Registrar as soon as it is reasonably practicable after the birth of the child.²¹³ Note that a person guilty of such an offence is liable to pay a fine of \$SID 100 (\$12.29²¹⁴) or to be imprisoned for six months or both.²¹⁵

A birth that is registered after the child's fifth birthday is legally deemed a late registration.²¹⁶ As of August 2015 a total of 43,600 late registrations had been completed.²¹⁷

²¹²Solomon Times Online, "UNICEF Assists with Birth Registration" 16 September 2011, available at <http://www.solomontimes.com/news/unicef-assists-with-birth-registration/6453>

²¹³Births and Deaths (Registration) Act 1998, section 13, available at www.pacii.org/sb/legis/consol_act/bada301.rtf

²¹⁴All conversions are approximate and were made at the time of writing using a commercial rate of exchange available at www.xe.com.

²¹⁵Births and Deaths (Registration) Act 1998, section 18, available at www.pacii.org/sb/legis/consol_act/bada301.rtf

²¹⁶UNICEF, "Request for Proposal - Solomon Islands Civil Registration System", p, 15 available at <http://www.unicef.org/pacificislands/RFP.pdf>

If yes, amount in USD: _____

Requirements for Birth Registration (tick what applies):

Identification of Child's Father (X) His Nationality ()

Identification of Child's Mother (X) Her Nationality ()

Marital Status ()

As stated above, section 9(1) of the the Registration Act 1988 states that *"a responsible person shall, as soon as reasonably practicable after the birth of a child report, the birth to the Registrar"*.

Section 9(2) states that such a report

1. *"if made by a medical practitioner or nurse, shall be in writing; or*
2. *if made by the father or mother of the child, may be in writing or by word of mouth; and*
3. *in either case, shall specify:*
 - a) *the name and sex of the child;*
 - b) *the place where the birth occurred; and*
 - c) *the names and address of the parents of the child"*.

The Notice of Birth Forms that are now completed and submitted for registration in the Civil Registration Database, collect additional information including the following.²¹⁸

- i. Birth weight;
- ii. The father's name;
- iii. Date of birth; and
- iv. The marital status of the parents and where applicable marriage details.

Whenever possible both parents are now asked to sign the Notice of Birth Form whereas previously only the mother signed.²¹⁹

Are Stateless / Refugee Births Registered?

Yes (X) No ()

The Registration Act 1896 requires ministers to record the birth of foreigners in the territory.²²⁰ The Act does not define the term "foreigners". Therefore, going by the ordinary meaning of the word, stateless/refugee births should be able to be registered under the Registration Act 1896.

²¹⁷ UNICEF, "A child who is not registered at birth is invisible", 30 August 2015, available at <http://unicefpacific.blogspot.co.uk/2015/08/a-child-who-is-not-registered-at-birth.html>

²¹⁸ UNICEF, "Case Study on Narrowing the Gaps in Birth Registration: Born Identity Project Solomon Islands" available at http://www.unicef.org/pacificislands/Case_Studies_.pdf

²¹⁹ UNICEF, "Case Study on Narrowing the Gaps in Birth Registration: Born Identity Project Solomon Islands" available at http://www.unicef.org/pacificislands/Case_Studies_.pdf

²²⁰ Birth, Marriages and Deaths Registration Act 1896, section 11(1), available at http://www.paclii.org/sb/legis/consol_act/bmadra383/

Are children of single parents registered?

Yes (X) No ()

There has been nothing to suggest in the course of this research that registration of children with only a single parent would be disallowed.

The legislation clearly states that when the birth did not occur in the presence of a medical practitioner, the child's father or, in his absence, the mother must register the birth.²²¹ The inference from this is that the birth of a child of a single parent can be registered.

Are all children born in the territory registered?

Yes (X) No ()

The legislation states that the Registration Act 1988 does not apply to those that fall within the scope of the Registration Act 1896.²²² According to the Registration Act 1896, ministers must record the births of foreigners that occur within the territory.²²³

Therefore, foreigners born in the territory can be registered under the Registration Act 1896 and local Solomon Islanders can be registered under the Registration Act 1988. This ensures that all children born in the territory are registered.

If no, please provide list of those not registered.

Not applicable.

Other Requirements (if none, put not applicable)

Not applicable.

Registration System Set-up (this may not be in the legal framework)

As described above, notification occurs through Ministry of Health personnel or through churches. However, formal notification is through the Civil Registration/Electoral Office. After the commencement of the UNICEF pilot programme for birth registration, 15 additional service centres were opened up, significantly increasing access to registration for people living in rural areas.

This issue is covered in more detail by the location of facilities below.

²²¹Births and Deaths (Registration) Act 1998, section 9(3), available at www.paclii.org/sb/legis/consolidated_act/bada301.rtf

²²²Births and Deaths (Registration) Act 1998, section 2, available at www.paclii.org/sb/legis/consolidated_act/bada301.rtf

²²³Birth, Marriages and Deaths Registration Act 1896, available at http://www.paclii.org/sb/legis/consolidated_act/bmadra383/

Electronic Submission () Paper Submission () Both (X)

In order to be registered, evidence has to be presented. This is usually in the form of a birth notification certificate from a church or hospital/medical centre, which is sent on for processing to the Civil Registration Office.

The registration system was largely paper based. However, the Civil Registry Office piloted a database management system and the electronic civil registration system was officially launched in February 2014.²²⁴ As part of the scheme, staff at the health facilities complete the Notice of Birth Form with the new parents and send them monthly to the Civil Registry Office for processing.²²⁵

The database system is to replace the outdated paper based records system and is designed to capture, maintain and analyse data on key vital elements such as birth rates, deaths, causes of deaths and name changes. The system is also designed to enable remote operation, which means that birth registration data can be entered from anywhere in the country (assuming internet access is available) by a qualified and authorised entry clerk and linked up to the Solomon Islands Government network.²²⁶

While the e-Birth Registration Database has been set up as of February 2013,²²⁷ aside from news articles and UNICEF reports, there is no evidence from the Solomon Islands government on the extent of its implementation and breakdown of success rates by area/region.

Location of registration facilities (this may not be in the legal framework)

Capital city Yes (X) No ()

Other cities Yes (X) No ()

Villages Yes () No (X)

Other _____

Previously, registration occurred only in the capital city of Honiara, but with the UNICEF pilot project this has been extended to 15 additional satellite service centres significantly increasing access to people in rural areas.²²⁸

²²⁴Radio New Zealand, "Solomon Islands launches electronic civil registration system", 13 February 2014, available at <http://www.radionz.co.nz/international/programmes/datelinepacific/audio/2585618/solomon-islands-launches-electronic-civil-registration-system>

²²⁵UNICEF, "A child who is not registered at birth is invisible", 30 August 2015, available at <http://unicefpacific.blogspot.co.uk/2015/08/a-child-who-is-not-registered-at-birth.html>

²²⁶UNICEF, "Case Study on Narrowing the Gaps in Birth Registration: Born Identity Project Solomon Islands", available at http://www.unicef.org/pacificislands/Case_Studies_.pdf

²²⁷UNICEF, "Solomon Islands witness the launch of its new electronic civil registration system", available at http://www.unicef.org/pacificislands/1852_22150.html

²²⁸UNICEF, "Request for Proposal - Solomon Islands Civil Registration System", p, 15, available at <http://www.unicef.org/pacificislands/RFP.pdf>

Solomon Islands is divided into nine provinces and one administrative area that encompasses the capital city of Honiara. The other principal towns are Gizo, Auki, and Kirakira.

Previously, birth registration processes in Solomon Islands were largely centralised, with one central civil registration office in Honiara. However, in 2011, 80% of the population lived away from urban centres, in remote and island communities.²²⁹ Therefore, although the service to register the birth of a child was free, the cost and logistics of travel to the capital city could be a serious impediment for registering the birth of a child. The majority of births (86%) occur at health facilities,²³⁰ while previously it was policy that hospitals and clinics recorded births. The hospitals would then report the births to the Ministry of Health and enter the details for each birth into the Health Information System. However, these births were not necessarily officially registered at the Central Registry Office or entered into a centralised birth registration database.

In an effort to decentralise the birth registration system and reach out to provinces, in 2011 the Ministry of Health and Medical Services and the Ministry of Home Affairs formally agreed to work together on a pilot basis at the main provincial hospitals of Gizo Hospital (Western Province), the Taro Hospital (Choiseul Province) and the National Referral Hospital in Honiara to create satellite birth registration services centres at provincial levels which are supported by information collected by rural health care centres²³¹ in order to directly facilitate registration of children at birth through birth notifications.

As part of the scheme, staff at the health facilities complete the Notice of Birth Form with the new parents and send them to the Civil Registry Office on a monthly basis for processing.²³² Where forms are incomplete, nurses travelling to satellite clinics and villages take the incomplete forms back to the mother to seek the details required to complete the form and return it to the Civil Registry Office. This can cause considerable delays in the birth being registered.

To date, the new birth registration scheme currently covers about six provinces²³³ (the Western, Choiseul, Guadalcanal, Makira and Temotu provinces and the capital, Honiara) and there are plans to roll out the system in the remaining provinces. The progress is evident when considering that in 2007, 20 births were formally registered nationwide and with the support of the project more than 35,000 people were legally registered as of June 2014 and are on the national electronic civil registration database.²³⁴

²²⁹Solomon Times Online "UNICEF Assists with Birth Registration", 16 September 2011, available at <http://www.solomontimes.com/news/unicef-assists-with-birth-registration/6453>

²³⁰UNICEF: "Case Study on Narrowing the Gaps in Birth Registration: Born Identity Project Solomon Islands", available at http://www.unicef.org/pacificislands/Case_Studies_.pdf

²³¹UNICEF: "Case Study on Narrowing the Gaps in Birth Registration: Born Identity Project Solomon Islands", available at http://www.unicef.org/pacificislands/Case_Studies_.pdf

²³²UNICEF, "A child who is not registered at birth is invisible", 30 August 2015, available at <http://unicefpacific.blogspot.co.uk/2015/08/a-child-who-is-not-registered-at-birth.html>

²³³UNICEF: "Case Study on Narrowing the Gaps in Birth Registration: Born Identity Project Solomon Islands", available at http://www.unicef.org/pacificislands/Case_Studies_.pdf

²³⁴UNICEF: "Case Study on Narrowing the Gaps in Birth Registration: Born Identity Project Solomon Islands", available at http://www.unicef.org/pacificislands/Case_Studies_.pdf

However, there are still challenges in relation to the logistics of getting the data to the Civil Registry Office. In some cases it took a year for the data to be sent from the Health Service Points, registered at the Civil Registry Office and the birth certificate returned to the Health Service Points.²³⁵

Computers have been set up at the National Referral Hospital and midwives have been trained on inputting the data directly into the database (rather than send the completed paper forms to the Central Registry Office for input). If this is successful it will allow more births to be registered and allow the system to be refined and improved, as staff at the Civil Registry Office will be able to focus on refining the system rather than inputting data from forms. The computerised system and training can then be rolled out to more district hospitals.

Birth Registration is required for:

Access to education

Yes () No () Unclear (X) Law _____

We have not identified any primary legislation which states that a birth certificate is legally required to access the public education system. Chapter 69 on Education of the Laws of Solomon Islands²³⁶ does not specifically provide that birth registration is required for access to education or school enrolment.

Nevertheless, the Chief of UNICEF Solomon Islands, Mr Yun Jong Kang, stated in February 2013 that birth registration (and a birth certificate) is essential to access key services such as school enrolment.²³⁷ However, we have not identified any primary legislation to support this.

Obtaining a primary school diploma

Yes () No () Unclear (X) Law _____

See above.

Obtaining a secondary school diploma

Yes () No () Unclear (X) Law _____

See above.

Access to health (emergency services only)

Yes () No () Unclear (X) Law _____

No specific legislative provisions have been identified which require a birth certificate for access to emergency health services.

²³⁵ UNICEF, "A child who is not registered at birth is invisible", 30 August 2015, available at <http://unicefpacific.blogspot.co.uk/2015/08/a-child-who-is-not-registered-at-birth.html>

²³⁶ Education Act 1978, available at <http://www.unesco.org/education/edurights/media/docs/aa12258de9cecedbbe0134b4df2ad490e7300eae.pdf>

²³⁷ UNICEF, "Solomon Islands witness the launch of its new electronic civil registration system", available at http://www.unicef.org/pacificislands/1852_22150.html

The Government provides free basic healthcare to all in the Solomon Islands, but medical facilities in clinics and hospitals are very limited.²³⁸ However, the Chief of UNICEF Solomon Islands, Mr Yun Jong Kang, stated in February 2013 that birth registration (and a birth certificate) is essential to access health treatment.²³⁹

Access to health (primary health services only)

Yes () No () Unclear (X) Law _____

See above.

Access to health (all services)

Yes () No () Unclear (X) Law _____

See above.

Access to social security programmes / cash benefits

Yes () No () Unclear (X) Programme name _____ Law _____

Solomon Islands Social Welfare Department, which is part of the Ministry of Health, is responsible for administering social security and benefits. In general it is only Solomon Islands residents who are eligible (and particularly those who are financially vulnerable).²⁴⁰

Solomon Islands has very limited formal social protection provisions and over the years the country has made little progress in extending social protection.²⁴¹

The social security system in the Solomon Islands is limited to the Solomon Islands National Provident Fund,²⁴² which is confined to the labour force within the formal sector, with contributions being made equally by workers and employers. Voluntary membership is available for unemployed and self-employed people. Member benefits can be withdrawn from the scheme at the age of 50 or upon death, disability or permanent migration. Partial or full withdrawal is also permitted upon job redundancy or reaching the age of 40. In order to withdraw early, the member must substantiate the claim with proof of permanent job separation.²⁴³

²³⁸ UK Government, "Living in Solomon Islands", available at <https://www.gov.uk/guidance/living-in-solomon-islands>

²³⁹ UNICEF, "Solomon Islands witness the launch of its new electronic civil registration system", available at http://www.unicef.org/pacificislands/1852_22150.html

²⁴⁰ UK Government, "Living in Solomon Islands- Benefits", available at <https://www.gov.uk/guidance/living-in-solomon-islands#benefits>

²⁴¹ GDN, "Evaluation of Fiji, Solomon Islands, and Vanuatu's Social Protection Policies post 2008 Global Economic Crisis (GEC)", available at http://www.gdn.int/admin/uploads/editor/files/2013Conf_Papers/MasilinaTuiloaRotuivaqali_paper.pdf

²⁴² Solomon Islands, National Provident Fund Board, "About the National Provident Fund", available at <http://www.sinpf.org.sb/index.php/faq-s.html>

²⁴³ Social Security, Office of Retirement and Disability Policy, "Solomon Islands", available at <https://www.ssa.gov/policy/docs/progdesc/ssptw/2010-2011/asia/solomonislands.html>

There is no indication within the legislation we looked at that birth registration is required to access the social security system outlined above in the Solomon Islands. However, the Chief of UNICEF Solomon Islands, Mr Yun Jong Kang, stated in February 2013 that birth registration (and a birth certificate) is essential to access social security benefits.²⁴⁴

Nationality

Yes () No () Unclear (X) Law _____

There is no indication that birth registration is required for nationality in the Solomon Islands.

Identification card

Yes () No () Unclear (X) Law _____

There is no indication that residents of the Solomon Islands have identification cards.

Passport

Yes () No (X) Law Passports Act 2012

The Passports Act 2012 states that a Solomon Islands passport may be issued to a Solomon Islands citizen who meets various conditions, including that the applicant must provide evidence to the satisfaction of the Passport Officer of the applicant's identity, age and Solomon Islands citizenship.²⁴⁵

The Passports Act 2012 does not specifically require the provision of a birth certificate.

The Solomon Islands Passports Act passport application form (Form A)²⁴⁶ states that the following documents must be produced and included with the completed passport application form:

- (a) *"birth certificate or person's passport or 2 copies of statutory declarations, one by a relative or parent and one by a friend of 5 years or more, confirming date and place of birth - where applicant is an indigenous citizen of Solomon Islands;*
- (b) *birth certificate or previous passport or 2 statutory declarations as in (a), marriage certificate of person, copy of Solomon Islands citizenship certificate - where applicant claims to be a citizen through a parent who is a naturalized citizen of Solomon Islands;*
- (c) *birth certificate or previous passport or 2 declarations as in (a), copy of a Solomon Islands citizenship certificate where applicant is a naturalized citizen of Solomon Islands;*
- (d) *court order granting custody of a child to applicant - where applicant who claims to be the legal guardian, applies for a child under 16 years to be included in his/her passport;*
- (e) *if the child was born of a Solomon Islands father or mother outside the Solomon Islands, the child's birth certificate and the parents' marriage certificate, the Father's/Mother's*

²⁴⁴UNICEF, "Solomon Islands witness the launch of its new electronic civil registration system", available at http://www.unicef.org/pacificislands/1852_22150.html

²⁴⁵Passports Bill Act 2012 (No.2 of 2012), Section 6, available at <http://www.parliament.gov.sb/files/legislation/Acts/2012/Passports%20Act%202011.pdf>

²⁴⁶Passports Act, Form A, available at <http://www.commerce.gov.sb/Divisions/Immigration/Forms/new%20passport.pdf>

birth or registration certificate or other evidence of Solomon Islands citizenship must be produced;

(f) marriage certificate or statutory declaration certifying date and type of marriage - where a woman wants a change of name adopting her husband's name or surname;

(g) a court order for divorce, separation or documents showing applicant's use of a new or old name - where applicant wants a change of name used in marriage; or

(h) a court order, certificate of change of name, copy of bank account, NPF card or school register must be produced with a statutory declaration - where applicant wants a change of name other than by Marriage".

However, contrary to the legislation outlined above, the Chief of UNICEF Solomon Islands, Mr Yun Jong Kang, stated in February 2013 that birth registration (and a birth certificate) is essential to obtain a passport.²⁴⁷

Other (Please specify e.g. enrolment for social protection programme/ food bank)

The Chief of UNICEF Solomon Islands, Mr Yun Jong Kang, also stated in February 2013 that birth registration (and a birth certificate) is required to open a bank account.²⁴⁸

²⁴⁷ UNICEF, "Solomon Islands witness the launch of its new electronic civil registration system", available at http://www.unicef.org/pacificislands/1852_22150.html

²⁴⁸ UNICEF, "Solomon Islands witness the launch of its new electronic civil registration system", available at http://www.unicef.org/pacificislands/1852_22150.html

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- The Constitution of the Solomon Islands 1978, available at http://www.pacii.org/sb/legis/consol_act/c1978167
- Education Act 1978, available at <http://www.unesco.org/education/edurights/media/docs/aa12258de9cecedbbe0134b4df2ad490e7300eae.pdf>
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- Website of the Solomon Islands Parliament: Legislation, available at http://www.who.int/maternal_child_adolescent/epidemiology/profiles/neonatal_child/slb.pdf
<http://www.parliament.gov.sb/index.php?q=node/237>
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TANZANIA

Key points

- It is important to note that different laws regarding birth registration apply to mainland Tanzania²⁴⁹ and Zanzibar.²⁵⁰ There are also regional variations between birth registration systems.²⁵¹
- Birth registration in Tanzania is compulsory within three months of the child's birth²⁵² and within 42 days in Zanzibar.²⁵³
- Registration within 90 days of the birth is free of charge in mainland Tanzania and within 42 days of the child's birth in Zanzibar. Thereafter, fees are charged for late registration.
- Birth registration may be required to obtain identity documents, but it is unlikely to be required to access essential services.

Name of official authority in charge of registering a child's birth:

Mainland Tanzania

The official authority responsible for managing the birth registration and the certification process is mandated to the Registration Insolvency and Trusteeship Agency ("**RITA**").²⁵⁴

Zanzibar

The regulations for obtaining birth certificates in mainland Tanzania and Zanzibar are the same, and individuals on the mainland or in Zanzibar must use the procedures outlined by RITA.²⁵⁵

Where is the civil registry located in the government?

- (X) Ministry of Justice
- () Ministry of Interior
- () Electoral Agency

²⁴⁹The Births and Deaths Registration Act 1920, Chapter 108, available at [http://www.rita.go.tz/eng/laws/History%20Laws/Registration%20of%20Births%20and%20Deaths%20Ordinance%20\(Cap.%20108\).pdf](http://www.rita.go.tz/eng/laws/History%20Laws/Registration%20of%20Births%20and%20Deaths%20Ordinance%20(Cap.%20108).pdf)

²⁵⁰Births and Deaths Registration Act, Act No. 10 of 2006, available at <http://unstats.un.org/unsd/vitalstatkb/KnowledgebaseArticle50191.aspx>

²⁵¹UNICEF, "New birth registration system expanded to Mwanza", 11 May 2015, available at http://www.unicef.org/esaro/5440_tz2015_birth-registration-mwanza.html

²⁵²The Births and Deaths Registration Act 1920, Section 11

²⁵³Births and Deaths Registration Act, No 10 of 2006, Section 9(1)

²⁵⁴UNICEF, "Scaling up Birth Registration in Tanzania 2015-2019", p.3, available at <http://www.millicom.com/media/3789925/Scaling-up-Birth-Registration-in-Tanzania-2015-2020.pdf>

²⁵⁵Immigration and Refugee Board of Canada, "Tanzania: Procedure for obtaining a birth certificate in Zanzibar if no other identity document is available", 2012, available at <http://www.refworld.org/docid/52149d254.html>

() Independent Entity

() Other

Mainland Tanzania

RITA is a semi-autonomous government authority established under the Act of Parliament No. 30 of 1997 following Government Notice No. 397 of 2 December 2005. It is an executive agency under the Attorney Generals Chamber in the Ministry of Justice and Constitutional Affairs.²⁵⁶

Zanzibar

Please see response for "*Mainland Tanzania*".

Law and other relevant instruments:

Mainland Tanzania

Births and Deaths Registration Act (CAP 108, R.E. 2002) (the "**Mainland Registration Act**").²⁵⁷

Zanzibar

Births and Deaths Registration Act (No.10 2006) (the "**Zanzibar Registration Act**").²⁵⁸

Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?

Mainland Tanzania

Pursuant to section 5(1) Tanzania Citizenship Act 1995 (the "**Citizenship Act**")²⁵⁹, a person born in Tanzania (including Zanzibar) on or after Union Day (26 April 1964) is a citizen of the United Republic of Tanzania (*jus soli*). However, this does not apply if either parent is not a citizen or their father is the envoy of a foreign sovereign power or is an enemy of the state.

Equally, pursuant to section 6 of the Citizenship Act, a person born outside of Tanzania is deemed to be a citizen of Tanzania by descent if one of his parents is a citizen of Tanzania by birth or naturalisation (*jus sanguinis*).

Zanzibar

Please see response for "*Mainland Tanzania*".

²⁵⁶Website of Registration, Insolvency and Trusteeship Agency, "Aim and Historical Background", available at <http://www.rita.go.tz/page.php?pg=82&lang=en>

²⁵⁷Births and Deaths Registration Act (CAP 108, R.E. 2002)

²⁵⁸Births and Deaths Registration Act (No.10 2006)

²⁵⁹The Tanzania Citizenship Act 1995, No 6 of 1995, available at <http://www.refworld.org/docid/3ae6b5734.html>

Is there any legal obligation to register children?

Yes (X) No ()

If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.

Mainland Tanzania

Section 11 of the Mainland Registration Act states that it is the duty of a child's father and mother, or the occupier of the house in which the child is born or each person present at the birth or the person having charge of the child to register a child's birth within three months of the birth.

Zanzibar

Section 9 of the Zanzibar Registration Act provides for the same duty of registration as section 11 of the Mainland Registration Act.

Does the child need to be registered within a certain amount of time from birth?

Yes (X) No ()

If yes, by when?

Mainland Tanzania

Section 11 of the Mainland Registration Act states that a child needs to be registered within three months of the birth.

Zanzibar

Section 9(1) of the Zanzibar Registration Act stated that a child needs to be registered within 42 days of the birth.

Is a paper certificate issued as a result of the registration?

Yes (X) No ()

Mainland Tanzania

Section 25 of the Mainland Registration Act requires every district registrar and the Registrar General to give a copy of the register entry on payment of the prescribed fee outlined below.

Zanzibar

Section 15 of the Zanzibar Registration Act stipulates that a registrar or any authorised person shall at the time of registering any birth issue the person giving the information concerning the birth a certificate in the prescribed form free of charge.

Different by region/area?

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

Is there a separate fee for the issuance of a paper certificate?

Mainland Tanzania

Yes (X) No ()

The current rate is 3,500 Tanzanian Shillings ("**TZS**") (approximately \$1.60²⁶⁰) if a birth certificate is requested within 90 days of a child's birth or 4,000 TZS (approximately \$1.83) thereafter.²⁶¹ If the birth is registered ten years late then the appropriate fee is 20,000 TZS (approximately \$9.15) and 10,000 TZS (approximately \$4.58) in the districts.

However, a new system is being put in place over five years (2015-2020) which allows a health worker to send a baby's name, sex, date of birth and family details by phone to a central data base after which the birth certificate will be issued free of charge.²⁶² Once this has been fully implemented, birth certificates will be issued for free and thus there will be no separate fee for the issuance of a paper certificate.

Zanzibar

Yes () No (X)

Section 15 of the Zanzibar Registration Act confirms that a birth certificate is issued free of charge.

Different by region/area

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

Birth Registration Fee

Yes () No (X) Conditional ()

Mainland Tanzania

Birth registration is free of charge in health facilities where children are born.²⁶³ There is no indication from the information available that there is a fee payable for registration of a birth within three months from the date of such birth in mainland Tanzania or within 42 days of such birth in Zanzibar.

Zanzibar

Please see response for "*Mainland Tanzania*".

²⁶⁰ All conversions are approximate and made at the time of writing the report using a commercial exchange rate, available at www.xe.com.

²⁶¹ Website of Registration, Insolvency and Trusteeship Agency, "Registration of Births", available at <http://www.rita.go.tz/page.php?lang=en&pg=85>

²⁶² UNICEF, "Tanzania rolls out birth registration by mobile phone", 16 October 2015, available at <http://www.unicefstories.org/2015/10/16/tanzania-rolls-out-birth-registration-by-mobile-phone/>

²⁶³ UN Committee on the Rights of the Child (CRC), "Consideration of Reports submitted by States parties under Article 44 of the Convention - United Republic of Tanzania" 4 November 2013, available at <http://www.refworld.org/publisher/CRC.STATEPARTIESREP.TZA.54ae89254.0.html>

If yes, amount in USD: _____

If it's conditional, please provide reasons/cases for exemption.

Not applicable.

Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration')

Yes (X) No ()

Mainland Tanzania

Section 19 of the Mainland Registration Act states:

"A district registrar shall not enter in the register any birth after three months from the date of such birth or any death after one month from the date of death unless-

(a) he is satisfied of the correctness of the particulars tendered for registration; and

(b) payment is made of the prescribed fee:

Provided that the district registrar shall not, without the prior approval of the Registrar-General, register any birth ten or more years after its occurrence".

Zanzibar

Section 14 (1) of the Zanzibar Registration Act states:

"A registrar shall not register any birth after sixty days from the date of the birth except upon payment of the prescribed fee..."

If yes, amount in USD:

Mainland Tanzania

If the unregistered child is over 90 days old, but below ten years old, the current rate is 4,000 TZS (approximately \$1.83) for registration. If a child is above ten years old then the current rate to register the child in RITA headquarters is 20,000 TZS (approximately \$9.15) and 10,000 TZS (approximately \$4.58) in the districts.²⁶⁴

However, as stated above a new system is being put in place over five years (2015-2020) where birth registration details will be stored on a central data base and the birth certificate will be issued free of charge.²⁶⁵

Zanzibar

We could not find the amount payable in USD after 60 days of non-registration.

²⁶⁴Website of Registration, Insolvency and Trusteeship Agency, "Registration of Births", available at <http://www.rita.go.tz/page.php?lang=en&pg=85>

²⁶⁵UNICEF, "Tanzania rolls out birth registration by mobile phone", 16 October 2015, available at <http://www.unicefstories.org/2015/10/16/tanzania-rolls-out-birth-registration-by-mobile-phone/>

Requirements for Birth Registration (tick what applies):

Mainland Tanzania

Identification of Child's Father (X) His Nationality (X)

Identification of Child's Mother (X) Her Nationality (X)

Marital Status ()

Section 9 of the Mainland Registration Act states:

"The district registrar of a district shall keep a register, and shall enter therein every birth, whereof the prescribed particulars are reported to him, of a child born alive within his district".

Section 2 of the Mainland Registration Act states:

"Prescribed particulars" means:-

(a) as to any birth, the sex, name, date and place of birth, the names, residence, occupations and nationality of the parents, and such other particulars as the minister may by rules prescribe".

Zanzibar

Identification of Child's Father (X)²⁶⁶ His Nationality (X)

Identification of Child's Mother (X) Her Nationality (X)

Marital Status ()

Section 8(1) of the Zanzibar Registration Act states:

"Every registrar shall keep a register of births in the personalised form and subject to the provisions of Section 12 of this Act, shall enter therein the prescribed particulars of every birth occurring within his/her area and notified to the registrar".

Section 2 of the Zanzibar Registration Act states:

"Prescribed particulars" means:-

(a) as to any birth the name, sex, date and place of birth and the names, residence, citizenship, occupation and race, tribe or sect of the parents".

²⁶⁶Note. Zanzibar: 10(1) "no person shall be bound as father to register the birth of an illegitimate child, and no person shall be entered in the register as the father of such child except at his own request and upon his acknowledging himself to be the father of the child and signing the register as such. 10(3) for the purposes of this section an illegitimate child is that child born outside the wedlock or out of a father whose religious or other beliefs do not give such recognition to such a child". Without information on such religions or other beliefs held by men in Zanzibar, the significance of this branch of the definition of illegitimacy cannot be assessed.

Are Stateless / Refugee Births Registered?

Mainland Tanzania

Yes (X) No ()

There is no specific provision regarding refugee/stateless births. However, on the basis of section 9 of the Mainland Registration Act (above), the registrar must register every birth which is in his area and reported to him and so it seems that stateless and refugee births can be registered.

Zanzibar

Yes (X) No ()

There is no specific provision regarding refugee/stateless births. However, on the basis of section 8(1) of the Zanzibar Registration Act (above), the registrar must register every birth which is in his area and notified to him and so it seems that stateless and refugee births can be registered.

Are children of single parents registered?

Mainland Tanzania

Yes (X) No ()

Children of single parents *can* be registered in Tanzania pursuant to section 26 of the Mainland Registration Act, but it is not compulsory unless their mother is of European/American origin.

Zanzibar

Yes (X) No ()

It seems that children of single parents can be registered in Zanzibar.

Section 10(1) of the Zanzibar Registration Act states:

"No person shall be bound as father to register the birth of an illegitimate child, and no person shall be entered in the register as the father of such child except at his own request and upon his acknowledging himself to be the father of the child and signing the register as such".

Section 10(3) of the Zanzibar Registration Act states:

"for the purposes of this section an illegitimate child is that child born outside the wedlock or out of a father whose religious or other beliefs do not give such recognition to such a child".

Without information on such religions or other beliefs held by men in Zanzibar, the significance of this cannot be assessed.

Are all children born in the territory registered?

Mainland Tanzania

Yes () No (X)

The registrar must register those births which are reported to him. Moreover, as outlined above, section 11 of the Mainland Registration Act states that it is the duty of a child's father and mother, or the occupier of the house in which the child is born or each person present at the birth or the person

having charge of the child to register a child's birth within three months of the birth. However, there does not seem to be any sanction for failing to do so.

Registration is only compulsory in the following scenario under section 26 of the Mainland Registration Act:

"The registration of the birth of a child shall be compulsory if either one or both parents are of European or American origin or descent or, in the case of a child born out of wedlock and not recognised by its father, if the mother is of European or American origin or descent".

Zanzibar

Yes (X) No ()

The registrar must register those births which are reported to him. Moreover, as outlined above, section 9(1) of the Zanzibar Registration Act states that it is the duty of a child's father and mother, or the occupier of the house in which the child is born or each person present at the birth or the person having charge of the child to register a child's birth. However, there does not seem to be any sanction for failing to do so.

If no, please provide list of those not registered.

Mainland Tanzania

Registration is only compulsory under section 26 of the Mainland Registration Act (see above).

Zanzibar

Not applicable.

Other Requirements (if none, put not applicable)

Not applicable.

Registration System Set-up (this may not be in the legal framework)

Mainland Tanzania

Birth registration in Tanzania is a three-step process of (i) notification; (ii) registration; and (iii) certification.

1. Notification

Notification happens at the birth itself or at the first contact with a health facility in the first 90 days after birth, at which point the details are entered into an official log book.

2. Registration

The log book is then shared with the district registrar at which point parents can register the birth with the District Registrar at the District Administrative office. There is a processing fee of 3,500 TZS (approximately \$1.60).

Where registration has not taken place within 90 days, an application may be made for late registration to the District Administrative Secretary. This application has a longer verification process and attracts a higher processing fee (4,000 TZS (approximately \$1.83)). Some documentation and a proof of birth will also have to be obtained from the local government leadership.²⁶⁷

However, as stated above a new system is being put in place over five years (2015-2020) where birth registration details can be sent by mobile to a central data base.²⁶⁸

3. Certification

Previously, in order to obtain a birth certificate the applicant had to return after some time to the District Administrative Office to collect the certificate. Additional trips to the district, which is often far from the family home, were required because the process was not completed on time. However, the process of obtaining a certificate has changed. Whereas before there was a two-step system of birth notification and birth certification and birth certificates could only be accessed through the District Administrative Secretary, there is now only one step for the certificate and parents can receive their birth certificate from their local health clinic or through their local government system.²⁶⁹

Moreover, as stated above, as the new mobile birth registration system is put in place registration and certification will become simultaneous.

Zanzibar

There are birth registration offices at district level. For those children born in hospitals they receive notification cards for registration from the health facilities in which they are born, which are then submitted to the Registrar of Birth and Death for issuance of birth certificates.²⁷⁰

As stated above, the Zanzibar Registration Act states that the person who is registering the child needs:

"to give to the registrar of the area within which such child is born, within forty-two days of the birth of the child, information of the prescribed particulars required to be registered concerning such birth and in the presence of the registrar or any person authorised by the registrar in that behalf to sign the register".

²⁶⁷ UNICEF, "Scaling up Birth Registration in Tanzania 2015-2019", p.3, available at <http://www.millicom.com/media/3789925/Scaling-up-Birth-Registration-in-Tanzania-2015-2020.pdf>

²⁶⁸ UNICEF, "Tanzania rolls out birth registration by mobile phone", 16 October 2015, available at <http://www.unicefstories.org/2015/10/16/tanzania-rolls-out-birth-registration-by-mobile-phone/>

²⁶⁹ UNICEF, "The Government of Tanzania launches a new national birth registration system set to massively accelerate the number of children under 5 with birth certificates", 23 July 2013, available at http://www.unicef.org/tanzania/7162_13082.html

²⁷⁰ UN Committee on the Rights of the Child (CRC), "Consideration of Reports submitted by States parties under Article 44 of the Convention - United Republic of Tanzania" 4 November 2013, available at <http://www.refworld.org/publisher/CRC.STATEPARTIESREP,TZA,54ae89254,0.html>

Electronic Submission () Paper Submission () Both (X)

Electronic Submission

Mainland Tanzania

As stated above, whilst there is no specific provision in the Mainland Tanzania Registration Act regarding electronic submission, Tanzania recently launched a nationwide initiative (run by RITA, UNICEF and the telecommunications company, Tigo) to help parents register their children's birth by mobile phone.²⁷¹ The project has accelerated birth registration after years of stagnation. Tanzania is rolling out the mobile birth registration over the next five years. It is expected that as part of the project, 90% of all new borns will be registered within five years.²⁷²

The mobile birth registration ("mBirth") allows parents to register new births as well as those of children under five via an SMS-like service that can be accessed on any mobile phone, straight to a centrally run data base at RITA.²⁷³ The application is designed to work on all models of mobile phones and operating systems. The project will initially be rolled out in the Mbeya region followed by a further ten regions, namely, the Mwanza, Geita, Shinyanga, Iringa, Njombe, Tabora, Kagera, Kigoma, Didoma and Simiyu regions.²⁷⁴ After an automatic response, the registration worker can issue a birth certificate on the spot. The new forms have a detachable certificate that is issued to the family on completion, and then information on the form is recorded on mobile phones, provided by the telecoms company, Tigo.²⁷⁵

Zanzibar

Section 8(2) and (3) of the Zanzibar Registration Act specifically provides for electronic submission:

"s8(2): All entries and records required to be kept and all certificates required to be issued under this section, may from the first day of January 2006 be stored, processed and analyzed electronically and all existing records shall gradually be transferred to electronic data base.

s8(3): Until such time when all records have been stored and be capable of being electronically processed and analyzed, the present registry system and the electronic system shall run [sic] parallel."

²⁷¹ Al Jazeera, "Tanzania rolls out birth registration by mobile phone", 14 October 2015, available at <http://www.aljazeera.com/news/2015/10/tanzania-rolls-birth-registration-mobile-phone-151014134550042.html>

²⁷² AFK Insider, "Tanzania rolls out birth registration by mobile phone", 16 October 2015, available at <http://afkinsider.com/104990/tanzania-rolls-out-birth-registration-by-mobile-phone/>

²⁷³ Millicom, "Birth registration in Tanzania", December 2013, available at <http://www.millicom.com/media/millicom-news-features/birth-registration-in-tanzania/>

²⁷⁴ UNICEF, "New simplified birth registration initiative for children under-five launched in Tanzania", 11 May 2015, available at: <http://www.unicefstories.org/2015/05/11/new-simplified-birth-registration-initiative-for-children-under-five-in-tanzania/>

²⁷⁵ allAfrica "Tanzania: Protecting Tanzania's Invisible Children - Birth Registrations by Mobile Phone", 14 August 2014, available at <http://allafrica.com/stories/201408141663.html>

Paper Submission

Please see above for the registration system under "*Registration System Set-Up*".

Location of registration facilities (this may not be in the legal framework)

Capital city Yes (X) No ()

Other cities Yes (X) No ()

Villages Yes (X) No ()

Other _____

There are 30 administrative regions of which 25 are in Mainland Tanzania and five are in Zanzibar.²⁷⁶

Village/Mtaa/Shehia registers are used to register all people living in villages in both Mainland Tanzania and in Zanzibar.

Mainland Tanzania

The Regional Administration Act 1997 (the "**Administration Act**") states that there must be a district administrative secretary in every district of mainland Tanzania.²⁷⁷ Compulsory registration is undertaken in dispensaries and health centres situated in villages.²⁷⁸

As stated above, using the new mobile birth registration system, citizens will be less dependent on registration facilities as they can register on the central data base by mobile.

Zanzibar

The Government of Zanzibar has established a birth registration office in all Districts and Shehias (the lowest level of local government in Zanzibar). A form is available at the Shehia office for those children who are normally born out of health facilities. Children born in hospitals, receive notification cards for registration from the health facilities in which they are born, which are then submitted to the Registrar of Birth and Death for the issuance of birth certificates. The law has gone further by providing that where a birth has taken place in prison, hospital, orphanage/quarantine station, the duty to give such information shall lie with the officer in charge of the institution. No reference shall be made in the register to the fact that a child was born in prison.²⁷⁹

²⁷⁶The United Republic of Tanzania, "Population Distribution by Administrative Units", 2013, available at <http://nbs.go.tz/nbs/sensa/PDF/2012%20PHC%20POPULAR%20VERSION.pdf>

²⁷⁷The Regional Administration Act 1997, available at http://urbanlex.unhabitat.org/sites/default/files/tz_regional_administration_act_1997.pdf

²⁷⁸The United Republic of Tanzania, "The Country Second Periodic Report on the Implementation of the Convention on the Rights of the Child (CRC) 1998-2003", August 2004, available at [http://www.tanzania.go.tz/egov_uploads/documents/crc_1998_2\[003_sw.pdf](http://www.tanzania.go.tz/egov_uploads/documents/crc_1998_2[003_sw.pdf)

²⁷⁹UN Committee on the Rights of the Child (CRC), "Consideration of Reports submitted by States parties under Article 44 of the Convention - United Republic of Tanzania" 4 November 2013, available at <http://www.refworld.org/publisher/CRC.STATEPARTIESREP.TZA.54ae89254.0.html>

Birth Registration is required for:

Access to education

Yes () No () Unclear (X) Law _____

No relevant specific legislative or government policy provisions were found that might require birth registration in order to be admitted into education.

Education is compulsory for children aged 7-15 in both Mainland Tanzania and Zanzibar.

Obtaining a primary school diploma

Yes () No () Unclear (X) Law _____

See above.

Obtaining a secondary school diploma

Yes () No () Unclear (X) Law _____

See above.

Access to health (emergency services only)

Yes () No () Unclear (X) Law _____

No relevant specific legislative or government policy provisions were found that might require birth registration in order to have access to health.

Access to health (primary health services only)

Yes () No () Unclear (X) Law _____

See above.

Access to health (all services) Yes () No () Unclear (X) Law _____

See above.

Access to social security programmes/cash benefits

Yes () No () Unclear (X)

Programme name _____ **Law** _____

Mainland Tanzania

No relevant specific legislative or government policy provisions were found that might require birth registration in order to have access to social security programmes or cash benefits.

Zanzibar

No relevant specific legislative or government policy provisions were found that might require birth registration in order to have access to social security programmes or cash benefits.

However, under section 15(2) of The Zanzibar Social Security Fund Act a Managing Director may "*estimate the age of a member where such member has not declared his or her date of birth*", which implies that a birth certificate is not required.²⁸⁰

Nationality

Yes () No () Unclear (X) Law _____

Mainland Tanzania

Tanzanian nationality can be acquired in three ways by:

1. Birth - As stated above, under section 5(1) of the Citizenship Act, any person born in the United Republic on or after Union Day (26 April 1964) is deemed to be a citizen of the United Republic if at the time of his birth one of his parents is or was a citizen of United Republic of Tanzania.
2. Descent - As stated above, under section 6 of the Citizenship Act, any person born outside the United Republic on or after Union Day is deemed to be a citizen of the United Republic by descent if one of his parents is a citizen of the United Republic of Tanzania by birth or naturalisation.
3. Naturalisation - The minister at the Ministry of Home Affairs Immigration Services Department may permit a minor child of any citizen of the United Republic to be naturalised as a citizen of the United Republic upon an application made in the prescribed manner by a parent or guardian of the child. The application for Tanzanian citizenship for a minor should be attached with a birth certificate of the child.²⁸¹

The Constitution of Tanzania clearly states a birth certificate is a right of citizenship. A child born in the United Republic is entitled to have one.

Zanzibar

Please see response for "*Mainland Tanzania*".

Identification card

Yes () No () Unclear (X) Law _____

Mainland Tanzania

No relevant specific legislative or government policy provisions were found that might require birth registration in order to have access to identification cards.

Zanzibar

The Zanzibar Registration Act does not specify explicitly what the birth certificate is required for (e.g. passports and/or ID cards), however there is a catch-all provision in section 34 regarding the Registrar's cooperation with other agencies which could cover the issue of such national documents:

²⁸⁰The Zanzibar Social Security Fund, Act No.2 of 2005, available at <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/101049/121585/F1220599410/TZA101049.pdf>

²⁸¹Website of the Ministry of Home Affairs Immigration Services Department, available at <http://immigration.go.tz/module1.php?id=16>

"34(1): The Registrar of Births and Deaths shall establish and maintain a system of collaboration, consultation and cooperation with other Governmental agencies.

34(2): Without limited the generality of the subsection (1) of this section the Registrar of Births and Deaths may share and exchange data and information relating to the registration of births and deaths with Immigration department, the office of Chief Government Statistics and Zanzibar Identity Cards Legislation Office".

Passport

Yes () No () Unclear (X) Law _____

No relevant specific legislative or government policy provisions were found that might require birth registration in order to have access to a passport.

Other (Please specify e.g. enrolment for social protection programme/ food bank)

In both Tanzania and Zanzibar, a birth certificate may be required for identification purposes and as proof of age when opening bank accounts, joining higher learning institutions and before a court of law.

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- Births and Deaths Registration Act , Act No. 10 of 2006, available at <http://unstats.un.org/unsd/vitalstatkb/KnowledgebaseArticle50191.aspx>
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<http://www.refworld.org/publisher,CRC,STATEPARTIESREP,TZA,54ae89254,0.html>

- UNICEF, "New birth registration system expanded to Mwanza", 11 May 2015, available at http://www.unicef.org/esaro/5440_tz2015_birth-registration-mwanza.html
- UNICEF, "Scaling up Birth Registration in Tanzania 2015-2019", available at <http://www.millicom.com/media/3789925/Scaling-up-Birth-Registration-in-Tanzania-2015-2020.pdf>
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BIRTH REGISTRATION - PHASE THREE

A Comparative Report Prepared for UNICEF

August 2016



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PREFACE

Please note the following in relation to the research questionnaires:

1. These research reports form the third phase of a research project on birth registration law prepared by DLA Piper for UNICEF. Phase One was completed in November 2015 and Phase Two was completed in May 2016.
2. The purpose of this report is to compare the legal frameworks governing birth registration in four jurisdictions. Birth registration is the process by which a child's birth is recorded in the civil register by the applicable government authority. It provides the first legal recognition of the child.
3. The questionnaires have been prepared by lawyers from the UK performing desk based research. We have endeavoured to make the questionnaires as comprehensive as possible, but they should not be regarded as exhaustive.
4. Every attempt has been made to access English versions of all relevant and up to date legislation. However, given the nature of desk based research, some legislation was not available in English (or at all) and some may be outdated, although it was not always clear when this was the case. Where possible we have attempted to provide hyperlink references to online versions of legislation or provided scanned copies as an appendix to the questionnaire.
5. For many jurisdictions, reports and resources may be several years old. Due to a lack of up to date resources, in some cases older resources have been cited and relied upon as representing current practice. We would recommend referring to footnotes before relying on information.
6. The lawyers preparing these questionnaires are not experts on civil registration law or on the law of the jurisdictions which they researched, but have applied their general research skills to prepare answers to the questions. Words such as 'child', 'registration', and 'certificate' may not always be used with the strict definition ascribed to them by that jurisdiction's legislation.
7. Four groups of lawyers from different jurisdictions have carried out the research presented in these questionnaires and may have taken slightly different approaches to answering the questions. The questions requiring an answer of 'Yes' or 'No' are there to provide an easy-to-read overview of each jurisdiction and cannot capture all the relevant information and qualifications. In light of this, we recommend that the answer to each question is read in full and in the context of the questionnaire as a whole.
8. The final section of the questionnaire deals with the requirement for birth registration in order to access services. Where the answer to a particular question is 'Yes', we have made every attempt to provide the relevant legislative provision or have referred to the fuller narrative explanation below. Where the answer is 'No', we have either provided the legislative provision which explicitly states there is no need for birth registration (if relevant) or left the space blank. Where the answer is 'Unclear', we have left the space blank.
9. The scope of the questionnaires is limited to the domestic legal framework in relation to birth registration for each of the relevant jurisdictions. Some of the questionnaires may refer to specific international treaty obligations relating to child rights or birth registration in order to provide a fuller picture of the situation within that jurisdiction. However, the absence of a reference to an

international treaty does not imply that a country is not a party to it or that the treaty itself is not relevant to the issue of birth registration as a matter of international law.

10. The questionnaires focus on the registration of births occurring within the relevant jurisdiction. A number of questionnaires also refer to the registration of children born outside the jurisdiction to citizens of that country, i.e. consular birth registration, but this information has not been included in every questionnaire.
11. The section "*Law and other relevant instruments*" has largely been left blank as it was often difficult to find specific legislation stating which official authority in charge of registering a child's birth or where that civil registry is located in the government.
12. The legal definitions of citizenship and nationality may not be identical in each jurisdiction, and there are some jurisdictions which do not distinguish clearly between the two concepts. In a number of questionnaires we have referred to both citizenship and nationality in order to provide a more comprehensive picture of the legal framework in relation to birth registration. Where possible, we have tried to use the particular terminology that appears in the relevant jurisdiction's legislation and ensured that the information referring to either concept is consistent. This may lead to inconsistencies in the answers given to the question "*Is birth registration required for nationality?*".
13. We would recommend that more exhaustive research is undertaken to verify particular information before reliance is placed on particular content for the purposes of publication or disclosure to third parties. This report may not be relied upon by any party other than UNICEF.
14. Where fees or fines have been quoted in US Dollars, the conversion was approximate and made at the time of writing the questionnaires using a commercial exchange rate, available at www.xe.com.

BOTSWANA

Key points

- Births in Botswana must be registered at the local Department of Civil and National Registration, a department within the Ministry of Labour and Home Affairs, within 60 days of the birth.
- Registration of the birth of a child within the 60 days is free. However, any person who, without lawful excuse, fails to notify the Department of Civil and National Registration within 60 days shall be guilty of an offence and liable to a fine not exceeding 200.00 Botswanan Pula ("P") (USD \$18)¹ or to imprisonment for a term not exceeding two years, or to both.
- Birth registration is required to obtain a national identity card at age 16.

Name of official authority in charge of registering a child's birth:

The Department of Civil and National Registration²

Where is the civil registry located in the government?

() Ministry of Justice

() Ministry of Interior

() Electoral Agency

() Independent Entity

(X) Other - Ministry of Labour and Home Affairs ("**MLHA**")³

Law and other relevant instruments:

We did not find any legislation which sets out where the civil registry is located within the government.

Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?

The principle of *jus sanguinis* is applied by the Citizenship Act 1998 (the "**Citizenship Act**").⁴

¹ All conversions are approximate and were made at the time of writing using a commercial rate of exchange available at www.xe.com.

² Website of the World Health Organisation, "Civil registration and vital statistics systems", available at http://www.aho.afro.who.int/profiles_information/index.php/Botswana:Civil_registration_and_vital_statistics_systems

³ Website of the World Health Organisation, "Civil registration and vital statistics systems", available at http://www.aho.afro.who.int/profiles_information/index.php/Botswana:Civil_registration_and_vital_statistics_systems

Section 4(1) of the Citizenship Act sets out that "a person born in Botswana shall be a citizen of Botswana by birth if, at the time of his birth, his father or mother was a citizen of Botswana".

Section 5(1) of the Citizenship Act states that "*a person born outside Botswana shall be a citizen of Botswana by descent if, at the time of his birth, his father or mother was a citizen of Botswana*".

Both of these provisions demonstrate that nationality is determined by natural parents.

Is there any legal obligation to register children?

Yes (X) No ()

If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.

The Births and Deaths Registration Act 1969 (the "**Births and Deaths Registration Act**") sets out that there is a legal obligation to register the birth of children. Section 6 states that:

- "(1) *A prescribed notice of every child born alive or of any still-born child shall be made, within 60 days of such birth or still-birth, to either a District Registrar or a Registration by the:*
- a) *father or mother of the child or by the occupier of the dwelling in which the child is born, in the case of a birth or still-birth that occurs outside a health institution; or*
 - b) *medical practitioner or midwife in charge of the case of a birth or still-birth that occurs in a health institution*".⁵

Section 12 of the Children's Act 2009 supports this by stating:⁶

- "(1) *Every child has a right to nationality from birth.*
- (2) *In order to ensure the enjoyment of nationality, the parent or other person specified in the Births and Deaths Registration Act shall give notice of the child's birth to the Registrar of Births in such manner as is prescribed under that Act*".

Does the child need to be registered within a certain amount of time from birth?

Yes (X) No ()

⁴ The Citizenship Act 1998, Chapter 01:01, sections 4 and 5, available at <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/84984/94893/F1338824496/BWA84984.pdf>

⁵ Births and Deaths Registration Act 1969, Volume IV, Chapter 30:01, available at <http://www.elaws.gov.bw/law.php?id=263>

⁶ Children's Act 2009, Part III, section 12, available at http://www.aclr.info/images/stories/uploader/Publication_files/Acts/Botswana_Children_Act_08_of_2009.pdf

If yes, by when?

It is mandatory to report a birth within 60 days of its occurrence. As stated above, section 6 of the Births and Deaths Registration Act sets out a list of the individuals who have a legal obligation to register the birth of a child.⁷

Is a paper certificate issued as a result of the registration?

Yes (X) No ()

The MLHA website stated that upon receipt of a report of a birth, the registrar shall issue a birth certificate.⁸

Different by region/area?

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

Is there a separate fee for the issuance of a paper certificate?

Yes () No (X)

Not applicable.

Different by region/area

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

Birth Registration Fee

Yes () No (X) Conditional ()

Where the birth is registered within the prescribed time (within 60 days of its occurrence), a certificate is issued free of charge.⁹

⁷ The Births and Deaths Registration Act 1969, Volume IV, Chapter 30:01, section 6(1), available at <http://www.elaws.gov.bw/law.php?id=263>

⁸ Website of the Ministry of Labour and Home Affairs, "Registration of Birth", available at <http://www.gov.bw/en/Ministries--Authorities/Ministries/Ministry-of-Labour--Home-Affairs-MLHA/Tools--Services/Services--Forms/Birth-registration/>

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If yes, amount in USD:

Not applicable.

If it's conditional, please provide reasons/cases for exemption.

Not applicable.

Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration')

Yes (X) No ()

The MLHA website states that any registration after 60 days attracts a levy for every month of default, up to a maximum of P100.00 (USD 9.07).¹⁰

Section 24(1) of the Birth and Deaths Registration Act also imposes a sanction on any person who, without lawful excuse, fails to notify the birth of a child within 60 days of the birth of the child shall be guilty of an offence and liable to a fine not exceeding P200.00 (USD 18.14) or to imprisonment for a term not exceeding two years, or to both.¹¹ It is not clear whether there is any enforcement of this provision and whether the sanction is enforced in conjunction with the levy outlined above. This is not highlighted on the MLHA website.

If yes, amount in USD:

Up to a maximum of P100.00 (USD 9.07).

Requirements for Birth Registration (tick what applies):

Identification of Child's Father (X) His Nationality (X)

Identification of Child's Mother (X) Her Nationality (X)

Marital Status ()

Section 12(4) of the Children's Act states that the birth certificate shall indicate the name, citizenship and address of the biological mother and the biological father of the child, whether the child is born in or out of wedlock.¹²

However, section 6(2) of the Registration of Births and Deaths Act states that "*in a case of a child born out of wedlock, no person shall be required to give information under this Act as the child's father*".¹³

¹⁰ Website of the Ministry of Labour and Home Affairs, "Registration of Birth", available at <http://www.gov.bw/en/Ministries--Authorities/Ministries/Ministry-of-Labour--Home-Affairs-MLHA/Tools--Services/Services--Forms/Birth-registration/>

¹¹ The Births and Deaths Registration Act 1969, Chapter 30:01, Part IV, section 24(1)(a), available at <http://unstats.un.org/unsd/vitalstatkb/KnowledgebaseArticle50029.aspx>

¹² Children's Act 2009, Part III, section 12(4), available at http://www.aclr.info/images/stories/uploader/Publication_files/Acts/Botswana_Children_Act_08_of_2009.pdf

This implies that the father's name and nationality can be included on the birth certificate if the child is born out of wedlock, but these details are not required.

Are Stateless / Refugee Births Registered?

Yes (X) No ()

The MLHA website states that anyone born in Botswana qualifies for a birth certificate.¹⁴

Are children of single parents registered?

Yes (X) No ()

As stated above, section 6(2) of the Registration of Births and Deaths Act states that "*in a case of a child born out of wedlock, no person shall be required to give information under this Act as the child's father*".¹⁵ Therefore, it is clear that single mothers can register the birth of their children.

We could not find any information on whether single fathers can register the birth of their children in the mothers absence.

Are all children born in the territory registered?

Yes (X) No ()

Anyone born in Botswana qualifies for a birth certificate.¹⁶

Foreign nationals born in Botswana have a 7 digit birth registration number while citizens of Botswana have a 9 digit birth registration number, assigned by the Department of Civil and National Registration. Furthermore, if the child's parents or guardian have gained citizenship through naturalisation and the child is born in Botswana, the child also qualifies for a birth certificate with a 9 digit birth registration number.¹⁷

If no, please provide list of those not registered.

Not applicable.

¹³ The Births and Deaths Registration Act, Chapter 30:01, Part II, section 6(2), available at <http://unstats.un.org/unsd/vitalstatkb/KnowledgebaseArticle50029.aspx>

¹⁴ Website of the Ministry of Labour and Home Affairs, "Registration of Birth", available at <http://www.gov.bw/en/Ministries--Authorities/Ministries/Ministry-of-Labour--Home-Affairs-MLHA/Tools--Services/Services--Forms/Birth-registration/>

¹⁵ The Births and Deaths Registration Act, Chapter 30:01, Part II, section 6(2), available at <http://unstats.un.org/unsd/vitalstatkb/KnowledgebaseArticle50029.aspx>

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Other Requirements (if none, put not applicable)

Not applicable.

Registration System Set-up (this may not be in the legal framework)

A person whose duty it is to give notice of a birth shall send information Form CR B-1 or give verbal notice to the District Registrar or the Registration Officer of the district in which the birth took place. If the birth takes place in a health institution Form C.R. B-2 needs to be completed by a medical professional.

A national identity number is requested by the Births and Deaths Registration System at the time of birth registration.¹⁸ All birth certificates are issued by the service branches of the Department of Civil and National Registration.

Electronic Submission () Paper Submission () Both (X)

The majority of submissions are paper submissions. The procedure is outlined above. However, digital registration services have been launched in a number of hospitals. In 2012, the MLHA began installing computerised registration booths in hospitals and by August 2012 the MLHA had launched the digital registration services in four of the country's hospitals.¹⁹ It is unclear how this initiative has progressed.

Location of registration facilities (this may not be in the legal framework)

Capital city Yes (X) No ()

Other cities Yes (X) No ()

Villages Yes (X) No ()

Other _____

The Department of Civil and National Registration has a total of 12 District Offices and 24 sub-offices.²⁰

¹⁸ Republic of Botswana, "Organic Linking of Births and Deaths Registration with National Identity Management: Towards an Integrated National Population Register", available at https://www.oas.org/es/sap/dgpe/clarciev2012/pres/Botswana_presentation_Neo_C_Lepang.pdf

¹⁹ ICT Journal Africa, "Botswana launches digital birth registration", 17 August 2012, available at <http://ictjournalafrica.net/botswana-launches-digital-birth-registration/>

²⁰ Republic of Botswana, "Organic Linking of Births and Deaths Registration with National Identity Management: Towards an Integrated National Population Register", available at https://www.oas.org/es/sap/dgpe/clarciev2012/pres/Botswana_presentation_Neo_C_Lepang.pdf

Birth Registration is required for:

Access to education

Yes () No (X) Law _____

Section 18(1) of the Children's Act states that "*every child has a right to free basic education*".²¹

Parents/guardians who are seeking to register their children for primary or secondary education in Botswana may do so by filling out an application form and providing the requisite supporting documents.²²

Citizens must provide the National Identity Card of the parent or legal guardian, and the student's birth certificate or post natal clinic card.²³ Therefore, individuals have an option of providing a post natal clinic card rather than a birth certificate.

Non-citizens must provide the student's birth certificate, certified copies of both the parent/guardian's passport and the student's passport, the parent/guardian's resident permit and adoption documents (where applicable).²⁴

Obtaining a primary school diploma

Yes () No () Unclear (X) Law _____

See above. We did not find any sources that state whether a birth certificate is required to obtain a primary school diploma.

Obtaining a secondary school diploma

Yes () No () Unclear (X) Law _____

See above. We did not find any sources that state whether a birth certificate is required to obtain a secondary school diploma.

²¹ Children's Act 2009, Part III, section 12(4), available at http://www.aclr.info/images/stories/uploader/Publication_files/Acts/Botswana_Children_Act_08_of_2009.pdf

²² The Government of Botswana, "Primary School Student Registration - Standard One", available at <http://1govportal.imexsystems.net/en-gb/Citizens-Residents/Education/Pages/Primary-School-Student-Registration---Standard-One.aspx>; The Government of Botswana, "Early Childhood, Primary and Secondary School Enrolment Information (Rural Area Development Programme)", available at [http://1govportal.imexsystems.net/en-gb/Citizens-Residents/Education/Pages/Early-Childhood-Primary-and-Secondary-School-Enrolment-Information-\(Rural-Area-Development-Programme\).aspx](http://1govportal.imexsystems.net/en-gb/Citizens-Residents/Education/Pages/Early-Childhood-Primary-and-Secondary-School-Enrolment-Information-(Rural-Area-Development-Programme).aspx)

²³ The Government of Botswana, "Primary School Student Registration - Standard One", available at <http://1govportal.imexsystems.net/en-gb/Citizens-Residents/Education/Pages/Primary-School-Student-Registration---Standard-One.aspx>

²⁴ The Government of Botswana, "Primary School Student Registration - Standard One", available at <http://1govportal.imexsystems.net/en-gb/Citizens-Residents/Education/Pages/Primary-School-Student-Registration---Standard-One.aspx>

Access to health (emergency services only)

Yes () No () Unclear (X) Law _____

We did not find any sources that state whether a birth certificate is required to access emergency services. However, in a presentation given in 2012 by Ms. Neo Corneliah Lelang, the Director of the Department of Civil and National Registration, she stated that birth certificates and national identity cards are required to access free medical care.²⁵

Access to health (primary health services only)

Yes () No () Unclear (X) Law _____

See above. We did not find any sources that state whether a birth certificate is required to access primary health services.

Access to health (all services)

Yes () No () Unclear (X) Law _____

See above. We did not find any sources that state whether a birth certificate is required to access healthcare in general.

Access to social security programmes / cash benefits

Yes () No (X) Unclear ()

Programme name Old Age Pension Law Pensions Act 1966²⁶

To qualify for the old age pension an individual must be a citizen of Botswana, have attained the age of 65 and have a valid identity card.²⁷ To apply for an identity card, an individual needs a birth certificate. If they do not have a birth certificate, they need an affidavit in lieu of a birth certificate, an affidavit from the Chief or Headman and any other proof of records (e.g. school transcripts).²⁸ Therefore, whilst an individual does not need a birth certificate to access social security programmes, it makes the process much easier.

Nationality

Yes (X) No () Law _____

²⁵ Republic of Botswana, "Organic Linking of Births and Deaths Registration with National Identity Management: Towards an Integrated National Population Register", available at https://www.oas.org/es/sap/dgpe/clarciev2012/pres/Botswana_presentation_Neo_C_Lelang.pdf

²⁶ Pensions Act 1966, Chapter 27:01, available at <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/93019/108623/F-811163609/BWA93019.pdf>

²⁷ Website of Ministry of Local Government, "Old Age Pension", available at <http://www.gov.bw/en/Ministries--Authorities/Ministries/Ministry-of-Local-Government-MLG1/Services/Old-Age-Pension/>

²⁸ Website of Ministry of Labour and Home Affairs, "National Identity Card (OMANG)", available at <http://www.gov.bw/en/Ministries--Authorities/Ministries/Ministry-of-Labour--Home-Affairs-MLHA/Tools--Services/Services--Forms/National-identity-application/>

National Registration Act, CAP 01:02, section 5

A birth certificate is a requirement to apply to be on the national register. The register will contain the applicant's date of birth, the date of registration of the applicant and their registration number.²⁹ When an individual is registered at birth, a national identity number is requested by the Birth and Deaths Registration System from the National Registration System. This number is subsequently used for national registration at age 16. This number is also used to register deaths and generate a death certificate.³⁰

Identification card

Yes () No (X) Law _____

An identity card (*Omang*) is issued at the same time that a citizen successfully applies for national registration at age 16.

To apply for an identity card an individual needs a birth certificate. If they do not have a birth certificate they need an affidavit in lieu of a birth certificate, an affidavit from the Chief or Headman and any other appropriate records (e.g. school transcripts).³¹

Passport

Yes (X) No () Law _____

For children under 16, an original birth certificate must be provided in order to apply for a passport.³²

For children over 16 an identity card must be provided in order to apply for a passport.³³ As stated above, it is possible to apply for an identity card without a birth certificate, but it requires an affidavit from several sources and other proof of records.

Other (Please specify e.g. enrolment for social protection programme/ food bank)

National identity cards must be provided with an application for apprenticeship training.³⁴

²⁹ National Registration Act, CAP 01:02, section 5, available at <http://www.elaws.gov.bw/displaylrpage1.php?v=l&vp=&id=58>

³⁰ Republic of Botswana, "Organic Linking of Births and Deaths Registration with National Identity Management: Towards an Integrated National Population Register", available at https://www.oas.org/es/sap/dgpe/clarciev2012/pres/Botswana_presentation_Neo_C_Lepang.pdf

³¹ Website of Ministry of Labour and Home Affairs, "National Identity Card (OMANG)", available at <http://www.gov.bw/en/Ministries--Authorities/Ministries/Ministry-of-Labour--Home-Affairs-MLHA/Tools--Services/Services--Forms/National-identity-application/>

³² Website of Ministry of Labour and Home Affairs, "Electronic Passport Application", available at <http://www.gov.bw/en/Ministries--Authorities/Ministries/Ministry-of-Labour--Home-Affairs-MLHA/Tools--Services/Services--Forms/Passport-Application-Form/>

³³ Website of Ministry of Labour and Home Affairs, "Electronic Passport Application", available at <http://www.gov.bw/en/Ministries--Authorities/Ministries/Ministry-of-Labour--Home-Affairs-MLHA/Tools--Services/Services--Forms/Passport-Application-Form/>

If an individual would like to change their name, an identity card and a birth certificate or affidavit of birth are required.³⁵

Lastly, an identity card is required to register for employment.³⁶

³⁴ Website of Ministry of Labour and Home Affairs, "Apprenticeship Training", available at <http://www.gov.bw/en/Ministries--Authorities/Ministries/Ministry-of-Labour--Home-Affairs-MLHA/Tools--Services/Services--Forms/Apprenticeship-Application-Form/>

³⁵ Website of the Ministry of Labour and Home Affairs, "Change of Name", available at <http://www.gov.bw/en/Ministries--Authorities/Ministries/Ministry-of-Labour--Home-Affairs-MLHA/Tools--Services/Services--Forms/Change-of-name/>

³⁶ Website of the Ministry of Labour and Home Affairs, "Registration for Employment", available at <http://www.gov.bw/en/Ministries--Authorities/Ministries/Ministry-of-Labour--Home-Affairs-MLHA/Tools--Services/Services--Forms/Registration-for-employment/>

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Legislation Reviewed:

- Births and Deaths Registration Act 1969, Volume IV, Chapter 30:01, available at <http://www.elaws.gov.bw/law.php?id=263>
- Children's Act 2009, Part III, available at http://www.aclr.info/images/stories/uploader/Publication_files/Acts/Botswana_Children_Act_08_of_2009.pdf
- The Citizenship Act 1998, Chapter 01:01, available at <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/84984/94893/F1338824496/BWA84984.pdf>
- Constitution of Botswana 1966, available at http://www.chr.up.ac.za/undp/domestic/docs/c_Botswana.pdf
- Pensions Act 1966, Chapter 27:01, available at <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/93019/108623/F-811163609/BWA93019.pdf>

Further Sources:

- The Government of Botswana, "Primary School Student Registration - Standard One", available at <http://1govportal.imexsystems.net/en-gb/Citizens-Residents/Education/Pages/Primary-School-Student-Registration---Standard-One.aspx>
- The Government of Botswana, "Early Childhood, Primary and Secondary School Enrolment Information (Rural Area Development Programme)", available at [http://1govportal.imexsystems.net/en-gb/Citizens-Residents/Education/Pages/Early-Childhood,-Primary-and-Secondary-School-Enrolment-Information-\(Rural-Area-Development-Programme\).aspx](http://1govportal.imexsystems.net/en-gb/Citizens-Residents/Education/Pages/Early-Childhood,-Primary-and-Secondary-School-Enrolment-Information-(Rural-Area-Development-Programme).aspx)
- ICT Journal Africa, "Botswana launches digital birth registration", 17 August 2012, available at <http://ictjournalafrica.net/botswana-launches-digital-birth-registration/>
- Republic of Botswana, "Organic Linking of Births and Deaths Registration with National Identity Management: Towards an Integrated National Population Register", available at https://www.oas.org/es/sap/dgpe/clarciev2012/pres/Botswana_presentation_Neo_C_Lepang.pdf
- Statistics Botswana, "Vital Statistics Report 2012", June 2015 available at http://www.cso.gov.bw/images/vital_stats.pdf
- Website of the World Health Organisation, "Civil registration and vital statistics systems", available at

http://www.aho.afro.who.int/profiles_information/index.php/Botswana:Civil_registration_and_vital_statistics_systems

- Website of the Ministry of Labour & Home Affairs, "Registration of Birth", available at <http://www.gov.bw/en/Ministries--Authorities/Ministries/Ministry-of-Labour--Home-Affairs-MLHA/Tools--Services/Services--Forms/Birth-registration/>

DEMOCRATIC REPUBLIC OF CONGO ("DRC")

Key points

- Registering the birth of a child is free if this is done within 90 days.
- Parents register their children using paper submissions at Civil Registration Offices. Parents can also register a child using the proxy birth registration procedure, as detailed further below in our answer to "*Is a paper certificate issued as a result of the registration?*".

Name of official authority in charge of registering a child's birth

Ministry of Justice

Where is the civil registry located in the government?

The Ministry of Justice is responsible for civil registration in all of the offices within the country as well as in embassies and consulates, in collaboration with the Ministry of Foreign Affairs.³⁷

☒ (X) Ministry of Justice

☐ () Ministry of Interior

☐ () Electoral Agency

☐ () Independent Entity

☐ () Other

Law and other relevant instruments:

Code de la Famille ("**DRC Family Code**")

Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?

Section 2 of the Law on Congolese Nationality states that a person is Congolese by birth if their father is Congolese or if their mother is Congolese.³⁸ Therefore, the country applies *jus sanguinis* as the child will acquire nationality whether they are born in or out of the DRC.

³⁷ Code de la Famille, Chapitre II, Section XII, Article 160, available at <http://www.ambardcparis.com/pdf/Droit%20Civil%20et%20Judiciaire.pdf>

³⁸ Law on Congolese Nationality, Law No. 04/024, section 2, available at <http://leganet.cd/Legislation/Code%20de%20la%20famille/LIVRE%20I%20DE%20LA%20NATIONALITE.htm>

The DRC also applies *jus soli*. All persons belonging to ethnic groups and nationalities whose people and territory constituted what became the DRC are also Congolese citizens.³⁹ If an abandoned child is found in the DRC then they will also have the right to nationality, unless the identity of the child's parents are established.⁴⁰

Is there any legal obligation to register children?

Yes (X) No ()

Article 116 of the DRC Family Code states that any birth in the territory of the DRC must be declared to the registrar by the father or mother within 30 days after birth.⁴¹ If the father or mother cannot register the birth, other relatives or those present at the birth must register it.⁴² Contrastingly, Article 16 of the Law on Child Protection establishes a 90 day statutory period during which parents can register their children at civil registration offices.⁴³ As the Law on Child Protection was adopted in 2009 and the DRC Family Code was adopted in 1987, it is likely that the statutory period has been extended from 30 to 90 days.

Does the child need to be registered within a certain amount of time from birth?

Yes (X) No ()

If yes, by when?

As stated above, Article 16 of the Law on Child Protection establishes a 90 day statutory period during which parents can register their children at civil registration offices⁴⁴ whereas the DRC Family Code states that there is a 30 day statutory period for registration.⁴⁵

³⁹ Law on Congolese Nationality, Law No. 04/024, section 2, available at <http://leganet.cd/Legislation/Code%20de%20la%20famille/LIVRE%20I%20DE%20LA%20NATIONALITE.htm>

⁴⁰ Code de la Famille, Chapitre II, Section XII, Article 7, available at <http://www.ambardcparis.com/pdf/Droit%20Civil%20et%20Judiciaire.pdf>

⁴¹ Code de la Famille, Chapitre II, Section XII, Article 116, available at <http://www.ambardcparis.com/pdf/Droit%20Civil%20et%20Judiciaire.pdf>

⁴² Code de la Famille, Chapitre II, Section XII, Article 117, available at <http://www.ambardcparis.com/pdf/Droit%20Civil%20et%20Judiciaire.pdf>

⁴³ Law on Child Protection, Article 16, available at http://www.africanchildforum.org/clr/Legislation%20Per%20Country/DRC/drc_children_2009_fr.pdf, UNICEF, "An Identity for Every Child - Birth Registration in the city of Kinshasa", available at <http://reliefweb.int/sites/reliefweb.int/files/resources/255542782-Good-Practices-Guidelines-No-9-An-identity-for-every-child.pdf>

⁴⁴ Law on Child Protection, Article 16, available at http://www.africanchildforum.org/clr/Legislation%20Per%20Country/DRC/drc_children_2009_fr.pdf, UNICEF, "An Identity for Every Child - Birth Registration in the city of Kinshasa", available at <http://reliefweb.int/sites/reliefweb.int/files/resources/255542782-Good-Practices-Guidelines-No-9-An-identity-for-every-child.pdf>

⁴⁵ Code de la Famille, Chapitre II, Section XII, Article 116, available at <http://www.ambardcparis.com/pdf/Droit%20Civil%20et%20Judiciaire.pdf>

If parents do not register their children within 90 days, parents need to seek a court ruling (either a "Jugement Declaratif" or a "Jugement Suppletif").⁴⁶ This ruling can only be obtained through a payment of administrative fees, including the cost of a lawyer.⁴⁷ The entire procedure is estimated to cost about 29,000 Congolese Francs ("**CDF**") (USD 30.00).⁴⁸ This procedure is very expensive and discourages many parents from registering their children.

The DRC Family Code also sets out penalties for individuals who do not register the birth of their children. Article 114 of the DRC Family Code states that if parents do not register their child, then the penalty is seven days of imprisonment, a fine not exceeding 20 CDF (approximately USD 0.02⁴⁹) or both.⁵⁰ It is unclear whether this provision is enforced in practice.

Is a paper certificate issued as a result of the registration?

Yes (X) No ()

Paper certificates are issued as a result of the registration. This is clear from the "proxy" birth registration scheme. Under this scheme, parents do not need to go to the Civil Registry Office themselves. Proxy birth registration forms can be found at a number of maternity hospitals. The parents can fill out and sign a proxy form and, give it to an officer to take to the Civil Registry Office. Using the proxy forms, civil registration officers can fill out official birth certificates, which are given to the parents at the maternity hospital or at the civil registration office. The birth certificate is kept at the civil registration office if the parents cannot collect it or it is given to the parents' neighbourhood's chief.⁵¹

Different by region/area?

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

⁴⁶ United Kingdom: Home Office, "Country of Origin Information Report - Democratic Republic of the Congo", 27 January 2009, available at <http://www.refworld.org/docid/498166df2.html>

⁴⁷ UNICEF, "An Identity for Every Child - Birth Registration in the city of Kinshasa", available at <http://reliefweb.int/sites/reliefweb.int/files/resources/255542782-Good-Practices-Guidelines-No-9-An-identity-for-every-child.pdf>

⁴⁸ University of Venice, "Birth Certificate: Is it a human right? The case of the Democratic Republic of Congo", 2004, page 47, available at <http://dspace.unive.it/bitstream/handle/10579/7289/988037-1192230.pdf?sequence=2>

⁴⁹ All conversions are approximate and were made at the time of writing using a commercial rate of exchange available at www.xe.com

⁵⁰ Code de la Famille, Chapitre II, Section XII, Article 114, available at <http://www.ambardcparis.com/pdf/Droit%20Civil%20et%20Judiciaire.pdf>

⁵¹ UNICEF, "An Identity for Every Child - Birth Registration in the city of Kinshasa", available at <http://reliefweb.int/sites/reliefweb.int/files/resources/255542782-Good-Practices-Guidelines-No-9-An-identity-for-every-child.pdf>

Is there a separate fee for the issuance of a paper certificate?

Yes () No (X)

We did not find any sources that suggested that there was a separate fee for the issuance of a paper certificate. The sources stated that birth registration is free, which implies the paper certificate is also free.⁵²

Different by region/area

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

Birth Registration Fee

Yes () No (X) Conditional ()

Under the Law on Child Protection, Article 16 states that birth registration is free on the condition that the birth is registered within 90 days.⁵³ As stated above in the answer to the question "*Is there any legal obligation to register children?*", Article 116 of the DRC Family Code states that any birth in the territory of the DRC must be declared to the registrar by the father or mother within 30 days of the birth, but it is likely that the Law on Child Protection is currently applied.⁵⁴

If yes, amount in USD:

Not applicable.

If it's conditional, please provide reasons/cases for exemption.

Not applicable.

Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration')

Yes (X) No ()

As stated above, after 90 days of non-registration, a legal ruling is required in order to register a birth. It is unclear exactly how much this fee is. The entire procedure is estimated to cost about 29,000 CDF (USD 30.00).⁵⁵

⁵² UNICEF, "Taking the steps for a birth certificate, in the Democratic Republic of Congo", 30 November 2015, available at http://www.unicef.org/infobycountry/drcongo_86150.html

⁵³ Law on Child Protection, Article 16, available at http://www.africanchildforum.org/clr/Legislation%20Per%20Country/DRC/drc_children_2009_fr.pdf

⁵⁴ Code de la Famille, Chapitre II, Section XII, Article 116, available at <http://www.ambardcparis.com/pdf/Droit%20Civil%20et%20Judiciaire.pdf>

⁵⁵ University of Venice, "Birth Certificate: Is it a human right? The case of the Democratic Republic of Congo", 2004, page 47, available at <http://dspace.unive.it/bitstream/handle/10579/7289/988037-1192230.pdf?sequence=2>

If yes, amount in USD:

See above.

Requirements for Birth Registration (tick what applies)⁵⁶:

Identification of Child's Father (X) His Nationality ()

Identification of Child's Mother (X) Her Nationality ()

Marital Status ()

Article 118 of the DRC Family Code states that the information on the birth certificate will include:

- a) The time (if possible), day, month, year and place of birth, the sex of the child and the name given to it; and
- b) The names, age, profession and address of the parents.

Are Stateless / Refugee Births Registered?

Yes (X) No ()

As stated above, Article 116 of the DRC Family Code states that any birth in the territory of the DRC must be declared to the registrar.⁵⁷ Furthermore, as stated above, if an abandoned child is found in the DRC then they will also have the right to nationality, unless the child's parents' identity is established.⁵⁸

Are children of single parents registered?

Yes (X) No ()

Article 126 of the DRC Family Code states that the declaration of affiliation or the declaration of maternity of a child born outside of marriage, takes place before the registrar/civil servant. A declaration of affiliation is a declaration by a father stating that he is the biological father of the child being registered. The declaration is then recorded in the birth certificate or in a separate certificate.⁵⁹ Article 127 adds that as soon as the father, whether himself or through an agent, makes a declaration

⁵⁶ Code de la Famille, Chapitre II, Section XII, Article 118, available at <http://www.ambardcparis.com/pdf/Droit%20Civil%20et%20Judiciaire.pdf>

⁵⁷ Code de la Famille, Chapitre II, Section XII, Article 116, available at <http://www.ambardcparis.com/pdf/Droit%20Civil%20et%20Judiciaire.pdf>

⁵⁸ Code de la Famille, Chapitre II, Section XII, Article 7, available at <http://www.ambardcparis.com/pdf/Droit%20Civil%20et%20Judiciaire.pdf>

⁵⁹ Code de la Famille, Chapitre II, Section XII, Article 126, available at <http://www.ambardcparis.com/pdf/Droit%20Civil%20et%20Judiciaire.pdf>

of the birth of a child born outside of marriage, this declaration is equivalent to a bilateral affiliation for both mother and father.⁶⁰

Article 128 states that as soon as the declaration of affiliation or declaration of maternity has been made, by either parent or by both, it will be recorded in the margin of the child's birth certificate.⁶¹

Are all children born in the territory registered?

Yes (X) No ()

As mentioned above, Article 116 of the DRC Family Code states that any birth in the territory of the DRC must be declared to the registrar.⁶² However, in reality, registration rates are low due to several factors, including parents' lack of awareness about the significance of birth registration, costs associated with obtaining a birth certificate, and the distance between civil registration offices and residential areas.⁶³

If no, please provide list of those not registered.

Not applicable.

Other Requirements (if none, put not applicable)

Article 125 of the DRC Family Code states that births that take place on a ship or an aircraft must be recorded within 48 hours by the mother or by the father if he is on board. If the father is not present and it is impossible for the mother to declare the birth, the captain must record it.⁶⁴

If the birth took place on a ship, once it has arrived at its destination, two copies of the certificate established on board must be sent to the office of Maritime Records and to the registrar of the last known residence of the father, or the mother if the identity of the father is not yet known. If the last known address cannot be found or is outside the DRC, the registration should take place in La Gombe, Kinshasa.

If the birth took place on a DRC plane, two copies of the birth certificate established on board must be presented to the registrar of La Gombe, Kinshasa and the registrar of the last known residence of the father, or the mother if the identity of the father is not yet known.

⁶⁰ Code de la Famille, Chapitre II, Section XII, Article 127, available at <http://www.ambardcparis.com/pdf/Droit%20Civil%20et%20Judiciaire.pdf>

⁶¹ Code de la Famille, Chapitre II, Section XII, Article 126-128, available at <http://www.ambardcparis.com/pdf/Droit%20Civil%20et%20Judiciaire.pdf>

⁶² Code de la Famille, Chapitre II, Section XII, Article 116, available at <http://www.ambardcparis.com/pdf/Droit%20Civil%20et%20Judiciaire.pdf>

⁶³ UNICEF, "Field diary: In DRC, youth advocates learn about their right to a legal identity", 19 March 2012, available at http://www.unicef.org/infobycountry/drcongo_62041.html

⁶⁴ Code De Famille, Book of Person, Part 1 Identification Chapter 1, s. VII from the naming, Article 116, available at <http://www.ambardcparis.com/pdf/Droit%20Civil%20et%20Judiciaire.pdf>

Registration System Set-up (this may not be in the legal framework)

Electronic Submission () Paper Submission (X) Both ()

The Registration of Civil Status (including births) falls under the remit of the Ministry of Justice.⁶⁵ Registration may occur in several forms: at a maternity hospital, at a hospital or at a medical institution (public or private).

Please see response to "*Is a paper certificate issued as a result of the registration?*" for a description of the proxy birth registration system.

Furthermore, provincial governors can decide to create secondary civil registration offices. Local chiefs complete the proxy forms and then distribute the completed certificates on their behalf.⁶⁶ However, in reality, it has been reported that the majority of secondary offices are not operational.⁶⁷

Birth registries are archived at the civil registration offices, at the local High Court, the Civil State Office and, at national level, within the Central Bureau of civil registration of the Ministry of Justice. If a birth certificate is lost, official duplicates can be requested from these institutions.⁶⁸ Furthermore, hospitals and medical institutions are required to record the births that occur there under the law.⁶⁹

Location of registration facilities (this may not be in the legal framework)

Capital city Yes (X) No ()

Other cities Yes (X) No ()

Villages Yes (X) No ()

Other Medical facilities (privately and publicly funded)⁷⁰

There are Civil Registration Offices in both urban and rural areas.⁷¹ As previously stated, provincial governors can decide to create secondary civil registration offices.

⁶⁵ Code de la Famille, Chapitre II, Section XII, Article 160, available at <http://www.ambardcparis.com/pdf/Droit%20Civil%20et%20Judiciaire.pdf>

⁶⁶ UNICEF, "An Identity for Every Child - Birth Registration in the city of Kinshasa", available at <http://reliefweb.int/sites/reliefweb.int/files/resources/255542782-Good-Practices-Guidelines-No-9-An-identity-for-every-child.pdf>

⁶⁷ UNICEF, "UNICEF Annual Report 2014 - Democratic Republic of Congo", available at http://www.unicef.org/about/annualreport/files/Democratic_Republic_of_Congo_Annual_Report_2014.pdf

⁶⁸ UNICEF, "An Identity for Every Child - Birth Registration in the city of Kinshasa", available at <http://reliefweb.int/sites/reliefweb.int/files/resources/255542782-Good-Practices-Guidelines-No-9-An-identity-for-every-child.pdf>

⁶⁹ Code De Famille, Book of Person Part 1 Identification Chapter 1 s. VII from the naming, Article 119, available at <http://www.ambardcparis.com/pdf/Droit%20Civil%20et%20Judiciaire.pdf>

⁷⁰ Code De Famille, Article 119, available at <http://www.ambardcparis.com/pdf/Droit%20Civil%20et%20Judiciaire.pdf>

⁷¹ Code De Famille Book of Person Part 1 Identification Chapter 1 s. VII from the naming, Article 73-75, available at <http://www.ambardcparis.com/pdf/Droit%20Civil%20et%20Judiciaire.pdf>

As outlined above, the proxy registration procedure means that parents do not have to go to a Civil Registration Office to register the birth of their child.

Birth Registration is required for:

Access to education

Yes () No () Unclear (X) Law _____

Article 43 of the Constitution states that "*primary education is compulsory and free in the public establishments*" and "*all persons have the right to a school education*".⁷² This suggests that birth registration is not required. Nevertheless, we did not find any sources which state that birth registration is required to access education.

Obtaining a primary school diploma

Yes () No () Unclear (X) Law _____

We did not find any sources that state that birth registration is required to obtain a primary school diploma.

Obtaining a secondary school diploma

Yes () No () Unclear (X) Law _____

We did not find any sources that state that birth registration is required to obtain a secondary school diploma.

Access to health (emergency services only)

Yes () No () Unclear (X) Law _____

We did not find any sources which state that birth registration is required to access emergency services.

Access to health (primary health services only)

Yes () No () Unclear (X) Law _____

We did not find any sources which state that birth registration is required to access primary health services.

Access to health (all services)

Yes () No () Unclear (X) Law _____

We did not find any sources which state that birth registration is required to access healthcare.

Access to social security programmes / cash benefits

Yes () No () Unclear (X) Programme name _____ Law _____

⁷² The Constitution of the Democratic Republic of Congo, 2005, available at <http://www.parliament.am/library/sahmanadrutyunner/kongo.pdf>

We did not find any sources which state that birth registration is required to access social security programmes / cash benefits.

Nationality

Yes () No () Unclear (X) Law _____

The certificate of nationality (often replaced by the attestation in lieu issued by the Ministry of Justice) is the only legal proof of Congolese nationality.⁷³ We did not find any sources which state that birth registration is required to acquire the certificate of nationality.

Identification card

Yes () No () Unclear (X) Law _____

We did not find any sources which state that birth registration is required to access an identification card. Some sources state that the identity card is not always available to citizens within the DRC and often the voting card serves as an identity card in the DRC.⁷⁴

Passport

Yes () No () Unclear (X) Law _____

We did not find any sources which state that birth registration is required to obtain a passport.

Other (Please specify e.g. enrolment for social protection programme/ food bank)

Law No. 04/028 on the Identification and Enrolment of Voters in the Democratic Republic of Congo sets out that to obtain a voting card, applicants had to be able to prove their identity and age. There are two ways of doing this: by written proof or testimonial evidence.⁷⁵

To register by written proof an individual needs to present one of the following:

- a certificate of nationality or a document attesting that you have applied for a certificate of nationality;
- an identity document;
- a national passport;
- a national driving licence;
- a national pension book;
- a pupil or a student card; or
- a service card.

⁷³ ICC, "Registry Report on Proof of Identity Documents Available in the DRC", available at https://www.icc-cpi.int/RelatedRecords/CR2013_03256.PDF

⁷⁴ ICC, "Registry Report on Proof of Identity Documents Available in the DRC", available at https://www.icc-cpi.int/RelatedRecords/CR2013_03256.PDF

⁷⁵ EISA, "Overview of the Legislation for the National Elections in the Democratic Republic of Congo(DRC)", available at https://eisa.org.za/pdf/drc_electLaw_en.pdf

If the potential voter has none of these documents they can take an oath before Civil Registration Office which must be witnessed by five people registered on the electoral roll for that registration centre and must have lived in the district for at least five years.

Therefore, a birth certificate is not necessarily required in order to obtain a voting card.

References

Legislation Reviewed:

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Further Sources:

- Country of Origin Research and Information (CORI), "CORI Country Report Democratic Republic of Congo; Human Rights Issues", April 2013, available at <http://www.refworld.org/docid/51da80d74.html>
- EISA, "Overview of the Legislation for the National Elections in the Democratic Republic of Congo(DRC)", available at https://eisa.org.za/pdf/drc_electLaw_en.pdf
- UNICEF, "Field diary: In DRC, youth advocates learn about their right to a legal identity" , 19 March 2012, available at http://www.unicef.org/infobycountry/drcongo_62041.html
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- UNICEF, "Taking the steps for a birth certificate, in the Democratic Republic of Congo", 30 November 2015, available at http://www.unicef.org/infobycountry/drcongo_86150.html
- United Kingdom: Home Office, "Country of Origin Information Report - Democratic Republic of the Congo", 27 January 2009, available at

<http://www.refworld.org/docid/498166df2.html>

GHANA

Key points

- In Ghana, birth registration is compulsory under the Registration of Births and Deaths Act 1965. Ghana has ten administrative regions and each of the country's 170 registration districts has at least one registry office.
- The Registration of the Births and Deaths Act states that birth registration is free within 21 days of the date of birth and registration outside of this period shall only be made on the payment of the prescribed fee. Nevertheless, secondary sources state that birth registration is free, if the child is registered within 12 months of being born, which suggests that this period has been extended.⁷⁶ Late registration carries a fee of 10 Cedis (USD 2.60) for births registered when the child is between one and five years' old, and after they are five years' old a fee of 20 Cedis is applicable (USD 5.20).⁷⁷
- Birth registration is required to obtain a passport, as well as open a bank account. In practice, birth registration may be required to access a number of services, even where this is not expressly required by legislation.

Name of official authority in charge of registering a child's birth:

The official authority in charge of birth registration is the Births and Deaths Registry.⁷⁸ The central office is located in the capital city of Accra and there are district offices in all the district capitals.

Where is the civil registry located in the government?

- () Ministry of Justice
- () Ministry of Interior
- () Electoral Agency
- () Independent Entity
- (X) Other

Local Government Division, Ministry of Local Government and Rural Development

⁷⁶Registration of Births and Deaths Act 1965 Act 301, section 8(6), available at <http://www.refworld.org/docid/548edaf74.html>

⁷⁷All conversions are approximate and were made at the time of writing using a commercial rate of exchange available at www.xe.com.

⁷⁸Services Portal of the Government of Ghana, "Welcome to Births and Deaths Registry", available at <http://www.eservices.gov.gh/bdr/SitePages/bdr-home.aspx>

Law and other relevant instruments:

The Births and Deaths Registry was established by the Registration of Births and Deaths Act 1965, Act 301 ("**Registration of Births and Deaths Act**") within the Ministry of Local Government and Rural Development, to manage and develop the births and deaths registration system in Ghana. The Births and Deaths Registry's website states that its core responsibility is "*to provide accurate and reliable information on all births and deaths occurring within Ghana*".⁷⁹

Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?

Both *jus sanguinis* and *jus soli* are used to determine nationality in Ghana in accordance with the Citizenship Act 2000, Act 591 ("**Citizenship Act**").⁸⁰

Sections 3-7 of the Citizenship Act set out that nationality is determined by natural parents or grandparents (*jus sanguinis*). Since independence from the UK, Ghana has introduced new Constitutions in 1957, 1969, 1979 and 1992. Each time the Constitution has been introduced, the framework governing nationality has been altered. Section 7 of the 1992 Constitution is the most relevant section for the purposes of this report as it sets out the position for individuals born on or after 7 January 1993:

"Persons born on or after 7/1/93 - Constitution 1992

A person is a citizen of Ghana by birth if he was born on 7th January 1993 or born after that date in or outside Ghana and at the date of his birth either of his parents or one grandparent was or is a citizen of Ghana".

If an individual was born before 7 January 1993, their nationality is determined by sections 3-6.

Section 3 states the position for individuals born before 6 March 1957:

"Persons born before 6/3/57

- (1) A person born before 6th March 1957 is a citizen of Ghana by birth if
- (a) he was born in Ghana and at least one of his parents or grandparents was born in Ghana; or (b) he was born outside Ghana and one of his parents was born in Ghana".

⁷⁹Services Portal of the Government of Ghana, "Welcome to Births and Deaths Registry", available at <http://www.eservices.gov.gh/bdr/SitePages/bdr-home.aspx>

⁸⁰Citizenship Act 2000, Act 591, available at <http://www.refworld.org/docid/3eda135a2.html>

Section 4 states the position for individuals born on or after 6 March 1957, but before 22 August 1969:

"Person born on or after 6/3/57 but before 22/8/69

- (1) *A person born on or after 6th March 1957 and before 22nd August 1969 is a citizen of Ghana by birth if –*
 - (a) *he was born in or outside Ghana and either of his parents, and also one at least of his grandparents or great-grandparents, was born in Ghana; or*
 - (b) *in the case of a person born in Ghana neither of whose parents was born in Ghana, at least one of his grandparents was born in Ghana.*
- (2) *A person is not a citizen of Ghana for the purposes of subsection (1) of this section if at the time of his birth the parent, grandparent or great-grandparent through whom the citizenship is claimed has lost his citizenship of Ghana.*
- (3) *A person born on or after 6th March 1957 and before 22nd August 1969 is a citizen of Ghana by birth if –*
 - (a) *he was born in Ghana and at the time of his birth either of his parents was a citizen of Ghana by registration or naturalization; or*
 - (b) *he was born outside Ghana and at the time of his birth both of his parents were citizens of Ghana by registration or naturalization".*

Section 5 states the position for individuals born on or after 22 August 1969, but before 24 September 1979:

"Person born on or after 22/ 8/69 - Constitution 1969

A person is a citizen of Ghana by birth if he was born in or outside Ghana on or after 22nd August 1969 and before 24th September 1979 and at the date of his birth either of his parents was a citizen of Ghana".

Section 6 states the position for individuals born on or after 24 September 1979, but before 7 January 1993:

"Persons born on or after 24/9/79 - Constitution 1979

A person born on or after 24th September 1979 and before 7th January 1993 is a citizen of Ghana by birth if- (a) he was born in Ghana and at the date of his birth either of his parents or one grandparent was a citizen of Ghana; or (b) he was born outside Ghana and at the date of his birth either of his parents was a citizen of Ghana".

Section 8 of the Citizenship Act states that "a child of not more than seven years of age found in Ghana whose parents are not known shall be presumed to be a citizen of Ghana by birth". Therefore, Ghana also applies jus soli to determine nationality.

Is there any legal obligation to register children?

Yes (X) No ()

If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.

The Registration of Birth and Deaths Act sets out the legal obligation to register both for public bodies and citizens.⁸¹ Section 1(2) of the Registration Of Births And Deaths Act, states that the Central Office shall maintain a register of all the births occurring in the Republic of Ghana.

Section 8(3) states that the prescribed particulars for registration shall be provided by:

- "a) the father and the mother of the child, or
- b) in the case of the death or incapacity of the father and mother,
 - i) the occupier of the premises in which the child is born, if the occupier has knowledge of the birth, or
 - ii) a person present at the birth, or
 - iii) a person having charge of the child".

Section 36(1) sets out the penalties for not registering a birth:

"a person who fails to give a notice, or to furnish a statement, certificate or the particulars required under this Act, within the time limited by this Act, commits an offence and is liable on conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding one year".

Nevertheless, a 2015 UNICEF report highlights that *"while the law states that it is the obligation of the parents to register their children, there is no sanctions for failure to comply"*.⁸² This contradicts section 36(1) as outlined above. This may be because penalties for not registering a birth are not enforced in practice.

Section 36(2) states that if one or more persons are required to register at birth and the duty is carried out by any one of those persons, the others will not be liable.

Does the child need to be registered within a certain amount of time from birth?

Yes (X) No ()

If yes, by when?

Section 8(4) of the Registration of the Births and Deaths Act states that the birth shall be registered within 21 days of the date of birth and registration outside of the period shall only be made on the

⁸¹Registration of Births and Deaths Act 1965 Act 301, available at <http://www.refworld.org/docid/548edaf74.html>

⁸²UNICEF, "Governance and Policy Coordination: The Case of Birth Registration in Ghana", page 13, June 2015, available at https://www.unicef-irc.org/publications/pdf/Ghana_birth_reg_layout_U.pdf

payment of the prescribed fee. Section 8(5) sets out that if the birth is not registered within 21 days then the Registrar:

"...may by notice in writing summon any of the persons referred to in subsection (3) [see above] to attend personally at the Births and Deaths Registry to furnish the prescribed particulars for registration within a prescribed time".⁸³

Section 8(6) states that:

" a birth shall not be registered after the expiration of twelve months from the date of birth except with the written authority of the Registrar and on the payment of the prescribed fee, and notice of that authority having been given shall be entered in the register".⁸⁴

However, as noted above, secondary sources suggest that the period during which birth registration is free has been extended from 21 days to 12 months.⁸⁵

Is a paper certificate issued as a result of the registration?

Yes (X) No ()

The Registration of Births and Deaths Act sets out that a paper certificate is issued as a result of the registration for free. Section 11 of the Registration of Births and Deaths Act states that:

"The Registrar shall, as soon as a birth is registered, or, where the birth is registered without a name, then, on registration of the name, issue a birth certificate free of charge to the father, mother or a person authorised by one of them or by the Court".⁸⁶

Different by region/area?

Yes () No (X)

If it's different by region/or area, please provide us more detail

Not applicable.

⁸³Registration of Births and Deaths Act 1965 Act 301, section 8(5), available at <http://www.refworld.org/docid/548edaf74.html>

⁸⁴Registration of Births and Deaths Act 1965 Act 301, section 8(6), available at <http://www.refworld.org/docid/548edaf74.html>

⁸⁵UNICEF, "Governance and Policy Coordination: The Case of Birth Registration in Ghana", page 12, June 2015, available at https://www.unicef-irc.org/publications/pdf/Ghana_birth_reg_layout_U.pdf

⁸⁶Registration of Births and Deaths Act 1965 Act 301, section 11, available at <http://www.refworld.org/docid/548edaf74.html>

Is there a separate fee for the issuance of a paper certificate?

Yes () No (X)

Please see the answer above to "Is a paper certificate issued as a result of the registration?".

Birth Registration Fee

Yes () No (X) Conditional ()

As outlined above, there is a period of time in which a child can be registered for free. The Registration of Births and Deaths Act states that this period is 21 days, whereas secondary sources suggest that this period has been extended to 12 months.

If yes, amount in USD:

Not applicable.

If it's conditional, please provide reasons/cases for exemption.

Not applicable.

Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration')

Yes (X) No ()

As highlighted above, the Registration of Births and Deaths Act states that birth registration is free if the birth is registered within 21 days. However, where a birth has not been registered within 21 days, they can be registered on the payment of the prescribed fee. Nevertheless, secondary sources have suggested that whilst under the legislation the free period was only 21 days, it has subsequently been extended to 12 months.⁸⁷

If yes, amount in USD:

If registration takes place when the child is between one and five years old there is a fee of 10 Cedis (USD 2.60), and after they are five years old, the fee is 20 Cedis (USD 5.20).⁸⁸

Requirements for Birth Registration (tick what applies):

Identification of Child's Father (X) His Nationality (X)

Identification of Child's Mother (X) Her Nationality (X)

Marital Status ()

⁸⁷UNICEF, "Governance and Policy Coordination: The Case of Birth Registration in Ghana", page 12, June 2015, available at https://www.unicef-irc.org/publications/pdf/Ghana_birth_reg_layout_U.pdf

⁸⁸UNICEF, "Governance and Policy Coordination: The Case of Birth Registration in Ghana", page 12, June 2015, available at https://www.unicef-irc.org/publications/pdf/Ghana_birth_reg_layout_U.pdf

Please see draft Birth Registration Form at Appendix 1.

It should be noted that, under section 9 of the Registration of Births and Deaths Act 1965, where the paternity of a child is in doubt "*a person shall not, as the putative father of the child, be required to give information*". Therefore, the identification of a child's father and his nationality may not always be required.

Moreover, section 6(4) of the Children's Act, 1998 Act 560 ("**Children's Act**") states that "*each parent shall be responsible for the registration of the birth of their child and the names of both parents shall appear on the birth certificate except if the father of the child is unknown to the mother*".⁸⁹

Are Stateless / Refugee Births Registered?

Yes (X) No ()

Refugee births can, and have been, registered in Ghana.⁹⁰ Under section 2 of the Registration of Births and Deaths Act, "*there shall be maintained in the central office registers of the births... occurring in the Republic*". There is no statutory exclusion of stateless or refugee births.

It is further noted that under Article 6(3) of the Constitution of Ghana, "*a child of not more than seven years of age found in Ghana whose parents are not known shall be presumed to be a citizen of Ghana by birth*".⁹¹

Are children of single parents registered?

Yes (X) No ()

The Registration of Births and Deaths Act allows for the registration of the children of single parents. As stated above, section 9(1) states that when the paternity of a child is in doubt, then the Registrar shall not enter the name of a person as father of the child except at the joint request of the child's mother and a person who acknowledges that they are the father.⁹²

However, it is not clear within the legislation whether it is possible to register as a single father. There are no requirements on the Birth Registration Form (Appendix 1) which suggest that it is not possible to register as a single father.

Are all children born in the territory registered?

Yes (X) No ()

⁸⁹Children's Act 1998, Act 560, section 6(4), available at <http://www.refworld.org/docid/44bf86454.html>

⁹⁰UNHCR, "Birth registration no small affair for refugee children in Ghana", 8 December 2004, available at <http://www.unhcr.org/41b705a74.html>

⁹¹The Constitution of the Republic of Ghana (Amendment) Act 1996, Chapter Three, Article 6(3), available at <http://www.wipo.int/edocs/lexdocs/laws/en/gh/gh014en.pdf>

⁹²Registration of Births and Deaths Act 1965, section 9, available at <http://www.refworld.org/docid/548edaf74.html>

Section 8(2) of the Registration of Births and Deaths Act states that "where a living new-born child is found deserted and information as to the place of birth is not available, the birth shall be registered by the Registrar for the district in which the child is found".⁹³

If no, please provide list of those not registered

Not applicable.

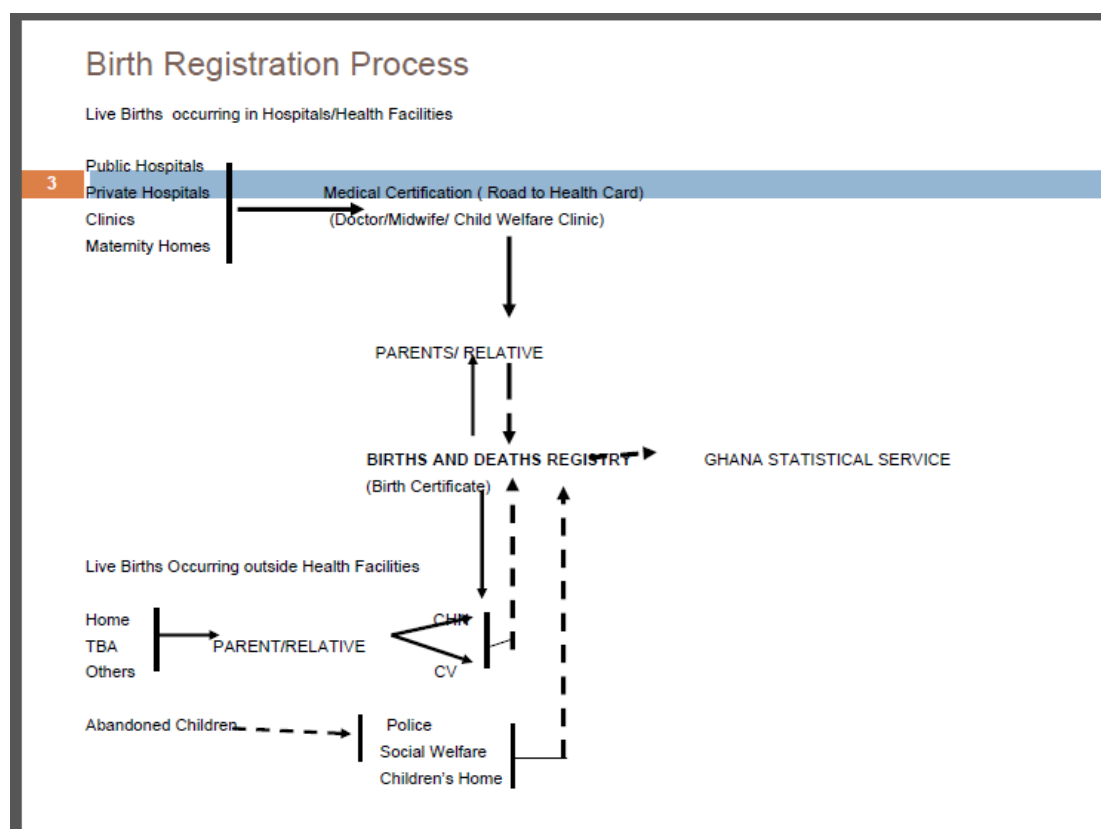
Other Requirements (if none, put not applicable)

Not applicable.

Registration System Set-up (this may not be in the legal framework)

Procedure for registration of birth before 21 days

The diagram below, which summarises the process for birth registration, was created by a Principal Assistant Registrar in Ghana and obtained from the World Bank website.⁹⁴



⁹³Registration of Births and Deaths Act 1965, section 8(2), available at <http://www.refworld.org/docid/548edaf74.html>

⁹⁴Presentation by Kingsley Asare Addo (Principal Assistant Registrar in Ghana), "The Civil Registration System In Ghana/Coordination Among The Registration, Statistics And Health Sectors", June 2009, available at <http://siteresources.worldbank.org/INTHSD/Resources/376278-1114111154043/1011834-1247677403598/060909TheCivilRegistrationSystemGhana.pdf>

Where a child is born in a hospital or clinical setting, a medical card is issued. As stated above, it is primarily the duty of the child's mother, father or both to report the birth of a child for registration.⁹⁵ Section 8(3) of the Registration of Birth and Deaths Act states that the prescribed particulars for registration shall be provided by:

- "a) *the father and the mother of the child, or*
- b) *in the case of the death or incapacity of the father and mother,*
 - i) *the occupier of the premises in which the child is born, if the occupier has knowledge of the birth, or*
 - ii) *a person present at the birth, or*
 - iii) *a person having charge of the child".*

Any person reporting the birth of a child will be required to produce proof of birth such as a medical certificate, a clinical weighing card, or "*in the absence of this, a baptismal certificate issued not more than 5 years after the birth of the child*".⁹⁶

Following the reporting procedure outlined above, a Registration Assistant will then administer the questionnaire titled Birth Registration Report Form (Form A) (Appendix 1).⁹⁷ Any information collected as a result of this questionnaire is subsequently recorded in the Register of Births, and a birth certificate is issued.⁹⁸

In May 2016, the Government of Ghana, Tigo (an international telecommunications brand) and UNICEF Ghana launched a new, automated birth registration system.⁹⁹ The system will allow individuals to register births by entering data via mobile phone. These details will be automatically stored in the national data system of the Births and Deaths Registry. Secondary sources state that parents will be able to register their children for free using the automated system within 12 months from the date of birth. As discussed above, this suggests that the free period of 21 days under the Registration of Births and Deaths Act has been extended to 12 months.¹⁰⁰

⁹⁵Registration of Births and Deaths Act 1965, section 8(3), available at <http://www.refworld.org/docid/548edaf74.html>

⁹⁶Ghana Health Service, "Birth Registration", available at <http://www.ghanahealthservice.org/programme-scat.php?ghspid=3&ghsscid=98>

⁹⁷A copy of Form No. 1 is included as Annex I.

⁹⁸Ghana Health Service, "Birth Registration", available at <http://www.ghanahealthservice.org/programme-scat.php?ghspid=3&ghsscid=98>

⁹⁹Ventures, "Forget paperwork, the mobile phone is king for registering births in Ghana", available at <http://venturesafrica.com/forget-paperwork-mobile-phones-are-king-for-registering-births-in-ghana/>

¹⁰⁰Ventures, "Forget paperwork, the mobile phone is king for registering births in Ghana", available at <http://venturesafrica.com/forget-paperwork-mobile-phones-are-king-for-registering-births-in-ghana/>

Procedure for registration of birth after 12 months

As stated above, section 8(6) of the Registration of Births and Deaths Act states that a birth can only be registered after 12 months from the date of birth if certain conditions are met. There is, therefore, a different procedure for registration of birth after 12 months. This is separate from the purported extension from 21 days to 12 months of the period of free registration, as outlined above.

In such cases, a parent must report the birth at the nearest Registry Office in the locality where the birth occurred. The Registration Assistant will then be responsible for interviewing the informant as well as "*partially completing*"¹⁰¹ the Birth Registration Report Form (Form A). It is unclear which part(s) of the form need to be completed.

Following completion of Form A and payment of a prescribed fee (outlined above), the informant is required to declare the partially completed documents before a Commissioner of Oaths, Court Registrar or Notary Public. These documents must be supported by either a clinical weighing/birth notification card, baptismal certificate, extract from Family Records Book, or Affidavit from one of the parents.¹⁰²

The Registration Assistant is then responsible for forwarding the declared documents to the Regional Registration Officer through the District Registration Office for approval.

Once the Regional Registration officer has authorised and returned the approved documents, it is the responsibility of the Registration Assistant to make an entry into the Register of Births and forward the completed registration forms to the Central Registry Office, where the finalisation and authentication of the birth certificate takes place.¹⁰³

Electronic Submission () Paper Submission () Both (X)

Births can be registered through submission of the handwritten Birth Registration Report Form (Form A) referenced above. Applicants can also apply for a birth certificate online by accessing the eServices Portal of the Government of Ghana,¹⁰⁴ or by using the new mobile phone registration system.¹⁰⁵

¹⁰¹Ghana Health Service, "Birth Registration", available at <http://www.ghanahealthservice.org/programme-scat.php?ghspid=3&ghsscid=98>

¹⁰²Ghana Health Service, "Birth Registration", available at <http://www.ghanahealthservice.org/programme-scat.php?ghspid=3&ghsscid=98>

¹⁰³Ghana Health Service, "Birth Registration", available at <http://www.ghanahealthservice.org/programme-scat.php?ghspid=3&ghsscid=98>

¹⁰⁴eServices Portal of Government of Ghana, available at <http://www.eservices.gov.gh/SitePages/Portal-Home.aspx>

¹⁰⁵Ventures, "Forget paperwork, the mobile phone is king for registering births in Ghana", available at <http://venturesafrica.com/forget-paperwork-mobile-phones-are-king-for-registering-births-in-ghana/>

Location of registration facilities (this may not be in the legal framework)

Capital city Yes (X) No ()

Other cities Yes (X) No ()

Villages Yes (X) No ()

The central office of the Births and Deaths Registry is located in Accra.¹⁰⁶

There are ten administrative regions in Ghana. In addition, each of the country's 170 registration districts has at least one registry office.¹⁰⁷

Birth Registration is required for:

Access to education Yes () No () Unclear (X) Law _____

Section 6(2) of the Children's Act 1998 recognises that every child has the right to education.¹⁰⁸

Under Chapter 5, Article 25 of the Constitution of Ghana, all persons shall have the right to equal educational opportunities and facilities with a view to achieving the full realisation of that right.¹⁰⁹

We have not been able to identify any legislative provision which states that birth registration is required in order to access education. However, our research indicates that, in practice, enrolment at educational institutions requires birth registration (see below).

Obtaining a primary school diploma

Yes () No () Unclear (X) Law _____

Students begin their primary school education at the age of six.¹¹⁰ This minimum age requirement indicates that proof of the child's age would need to be produced for a child to be enrolled into primary school and subsequently, obtain a primary school diploma.

The official website of the Ghana Education Service is silent on the admission requirements for school children.¹¹¹ However, as part of our research, we accessed websites for various primary schools in

¹⁰⁶Section 1(1) of the Registration of Births and Deaths Act, 1965

¹⁰⁷World Health Organization, "Birth registration and access to health care: an assessment of Ghana's campaign success", 25 April 2013, available at <http://www.who.int/bulletin/volumes/91/6/12-111351/en/>

¹⁰⁸Children's Act 1998, Act 560, section 6(4), available at <http://www.refworld.org/docid/44bf86454.html>

¹⁰⁹The Constitution of Ghana, Article 25, available at <http://www.politicsresources.net/docs/ghanaconst.pdf>

¹¹⁰Embassy of the Republic of Ghana, "Education in Ghana", available at <http://www.ghanaembassy.dk/education-ghana>

¹¹¹Ghana Education Service, available at <http://www.ges.gov.gh/>

Ghana. The admission requirements of all websites accessed included a copy of the child's birth certificate.¹¹²

It should be noted that the accessible websites were for fee paying schools. It was not possible to access the admission requirements of state funded schools (which are likely to be attended by children from less privileged backgrounds) to confirm whether their admission requirements also include birth certificates.

Obtaining a secondary school diploma

Yes () No () Unclear (X) Law _____

In order to access senior secondary schools, Ghanaian students are first required to undertake the Basic Education Certificate Examination ("**BECE**"). The results of the examination are released in August to enable successful candidates to enter Senior High Schools.¹¹³

To take the BECE exam, candidates are required to go through a biometric registration, provide personal information such as their date of birth, and ensure that their names are correctly entered.¹¹⁴

Whilst we have been unable to find legislation that specifically addresses whether a birth certificate is required to undertake the BECE exam, the emphasis on the need to correctly enter dates of birth and names indicates that this information will need to be verified, presumably by way of birth certificate.

It is noted that under section 34 of the Registration of Births and Deaths Act, every certificate issued under the Act "*shall be so admissible as prima facie evidence of the facts recorded therein*".¹¹⁵

Access to health (emergency services only)

Yes () No () Unclear (X) Law _____

We have not found any legislation which requires birth registration in order to access emergency healthcare.

Access to health (primary health services only)

Yes () No () Unclear (X) Law _____

¹¹²Primary School websites accessed include, North Legon Little Campus, "Admissions", available at <http://www.nlittlecampus.edu.gh/admissions.htm>, International Community School, "Procedures and Requirements", available at <http://www.icsghana.org/admissions/admission-requirements-and-process/>, Lincoln Community School, "Admission Process", available at <http://www.lincoln.edu.gh/page.cfm?p=366>

¹¹³The West African Examinations Council, "Basic Education Certificate Examination", available at <http://www.ghanawaec.org/EXAMS/BECE.aspx>

¹¹⁴The West African Examinations Council, "2016 Basic Education Certificate Examination For Private Candidates (Bece-Pc) Notes For The Guidance Of Candidates", available at [http://registration.ghanawaec.org/bece/docs/BECE%20\(PRIVATE\)_MANUAL.pdf](http://registration.ghanawaec.org/bece/docs/BECE%20(PRIVATE)_MANUAL.pdf)

¹¹⁵Registration of Births and Deaths Act 1965, section 34, available at <http://www.refworld.org/docid/548edaf74.html>

We have not found any legislation which requires birth registration in order to access primary health services.

Access to health (all services)

Yes () No () Unclear (X) Law _____

We have not found any legislation which requires birth registration in order to access healthcare services.

Access to social security programmes / cash benefits

Yes () No (X)

Programme name: National Pension; Law National Pensions Act 2008

The National Pensions Act 2008, Act 766 ("**National Pensions Act**") in Ghana established a contributory three-tier pension scheme which consists of the following:

- "(a) A mandatory basic national social security scheme
- (b) A mandatory fully funded and privately managed occupational pension scheme
- (c) A voluntary fully funded and privately managed provident fund and personal pension scheme".¹¹⁶

The minimum age at which a person may join the social security scheme is 15 years and the maximum age is 45 years.¹¹⁷

There is no explicit requirement for a birth certificate as proof of age. Under section 4(3) of the Basic National Social Security Regulations 2011, which sets out the pensions system, a worker who completes a worker registration form to join the scheme shall attach to the registration form evidence of date of birth in the form of a birth certificate, baptismal certificate or any other recognised official document.¹¹⁸

Nationality

Yes () No () Unclear (X) Law _____

Please see our answer to the earlier question on *jus sanguinis* and *jus soli*.

¹¹⁶National Pensions Act 2008, section 1(1), available at <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/88539/101275/F563187713/GHA88539.pdf>

¹¹⁷National Pensions Act 2008, section 59, available at <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/88539/101275/F563187713/GHA88539.pdf>

¹¹⁸Basic National Social Security Regulations, 2011, available at http://npra.gov.gh/pdf/Basic_National_Social_Security_Regulations.pdf

Under section 7 of the Citizenship Act, a person born on or after 7 January 1993 is deemed to be a citizen of Ghana if they were born in or outside Ghana and at the date of their birth either of their parents or one grandparent was or is a citizen of Ghana.¹¹⁹

There are no provisions within the Citizenship Act specifically requiring birth registration.

Section 21 of the Citizenship Act states that "*a document purporting to be a notice certificate order or declaration or an entry in a register or a subscription to an oath of allegiance, given, granted or made under this Act shall be received in evidence*".

There are a number of ways to acquire citizenship such as through application and marriage.¹²⁰

It is further noted that under section 8 of the Citizenship Act, a child of not more than seven years of age found in Ghana whose parents are not known shall be presumed to be a citizen of Ghana by birth.

Identification card

Yes (X) No () Law _____

In Ghana, it is necessary for an entry to be made in the National Identity Register before the issuance of a national identification card.

Under section 8(1) of the National Identity Register Act 2008, Act 750, ("**National Identity Register Act**"), the National Identification Authority shall require an individual who applies for an entry to be made in the Register to produce any of the following:

- "(a) a birth certificate; or
- (b) where applicable;
 - (i) a voter's identity card;
 - (ii) a driver's licence;
 - (iii) a passport; or
 - (iv) a baptismal certificate; and
- (c) any other information prescribed under this Act".¹²¹

¹¹⁹Citizenship Act 2000, Act 591, available at <http://www.refworld.org/docid/3eda135a2.html>

¹²⁰Citizenship Act 2000, Act 591, section 10, available at <http://www.refworld.org/docid/3eda135a2.html>

¹²¹National Identity Register Act, 2008 Act 750, section 8(1), available at <http://www.refworld.org/cgi-bin/telex/vtx/rwmain?docid=548ee10b4>

Passport

Yes (X) No () Law _____

A birth certificate is required to acquire a passport. The Ministry of Foreign Affairs of Ghana states that in order to acquire a Ghanaian passport, the following conditions must first be met:

- "(a) *A first time application should attach the light-green birth certificate issued by the Births and Deaths Registry*
- (b) *To replace an old passport the latter [the old passport] should be attached instead of a birth certificate.*
- (c) *To replace a missing passport, a police report on the loss and the light green birth certificate should attached.*
- (d) *Applicants below 18 years should attach the passport, National ID or Voter's ID of one of the parents or guardian in addition to his or her own documents".*¹²²

Other (Please specify e.g. enrolment for social protection programme/ food bank)

Opening a personal bank account in Ghana, and in particular, a bank account for a child, requires proof of the child's identification and age to be produced, in the form of a birth certificate. For instance, a birth certificate of the child is required under the application requirements for opening a Young Saver's Account at the UT Bank in Ghana.¹²³ The parent must produce their own valid ID, but this does not have to be in the form of a birth certificate.

¹²²Ministry of Foreign Affairs, available at <http://www.eservices.gov.gh/PO/SitePages/PO-Home.aspx>

¹²³UT Bank, "Young Saver's Account (YSA)", available at http://www.utbankghana.com/product_select.cfm?productID=2&corpnews_scetid=9

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Legislation Reviewed:

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- Constitution of the Republic of Ghana (Amendment) Act, 1996, available at <http://www.wipo.int/edocs/lexdocs/laws/en/gh/gh014en.pdf>
- Education Act, 2008 Act 778, available at <https://www.ilo.org/dyn/natlex/docs/MONOGRAPH/83622/92463/F2061259086/GHA83622.pdf>
- National Identity Register Act, 2008 Act 750, available at <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=548ee10b4>
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Further Sources:

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- The Civil Registration System In Ghana/Coordination Among The Registration, Statistics And Health Sectors", June 2009, available at <http://siteresources.worldbank.org/INTHSD/Resources/376278-1114111154043/1011834-1247677403598/060909TheCivilRegistrationSystemGhana.pdf>
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CONFIDENTIAL



REGISTRY CODE					

SERIAL NUMBER IN REGISTER				

[illegible]

8 a.															PARTICULARS OF MOTHER														
b.															FIRST NAME														
c.															MIDDLE NAME														
d.															SURNAME (MAIDEN NAME)														
e.															AGE (In completed years)														
f.															NID No.														
9															NATIONAL OF														

<u>PLACE AND ADDRESS OF USAR RESIDENCE</u>								
a.	House No.							
b.	Street Name							
c.	Town/Village							
d.	District							

11	NUMBER OF CHILDREN EVER BORN ALIVE (Including this birth)					Born alive and now living					
12	LIVE BIRTH ORDER					Born alive and now Dead					
13	LEVEL OF FORMAL EDUCATION ATTAINED	(A)	<input type="checkbox"/> None	(B)	<input type="checkbox"/> Primary	(C)	<input type="checkbox"/> Middle / JHS	(D)	<input type="checkbox"/> Secondary / SHS/Tech Vocational	(E)	<input type="checkbox"/> Tertiary (Teacher Training/Poly/University)
14	OCCUPATION										

C. PARTICULARS OF FATHER

15 a.	FIRST NAME																		
b.	MIDDLE NAME																		
c.	SURNAME																		
16	NATIONAL OF																		
17	AGE					NID No.													
18	LEVEL OF FORMAL EDUCATION ATTAINED	(A)	<input type="checkbox"/> None	(B)	<input type="checkbox"/> Primary	(C)	<input type="checkbox"/> Middle / JHS	(D)	<input type="checkbox"/> Secondary / SHS/Tech Vocational	(E)	<input type="checkbox"/> Tertiary (Teacher Training/Poly/University)								
19	OCCUPATION																		
20	RELIGION																		
21	IN GAINFUL EMPLOYMENT?	(A)	<input type="checkbox"/> Yes	(B)	<input type="checkbox"/> No														

D. PARTICULARS OF INFORMANT

22	FULL NAME																		
23	RELATIONSHIP																		
24	RESIDENTIAL ADDRESS																		
25	NID No.																		

E. REGISTRAR

26	NAME																		
27	DATE OF REGISTRATION																		

F. MARGIN

28																			

LIBERIA

Key points

- Birth registration is compulsory. Births in Liberia must be registered at the local registry within 14 days.
- It is free to register births for those aged 12 years old or below. However, special fees apply for birth registration of those aged 13 years old or above.

Name of official authority in charge of registering a child's birth:

The main official authorities are local registrars in each individual county in Liberia.

The Ministry of Health and Social Welfare has been mandated to provide leadership, policy coordination and, where necessary, technical support to other government structures to ensure effective decentralisation of birth registration throughout the country.¹²⁴ The Ministry is charged with the responsibility of appointing birth registration officers, and is the key stakeholder in the decentralisation of birth registration.¹²⁵

Liberia has recently decentralised its birth registration programme in 2012 to all counties for children below the age of 13. It currently has support from international organisations, including UNICEF and UNHCR, and has established the Birth Registration Improvement Plan, which aims to "*revitalize and improve the current decentralized universal birth registration system...envisaging that...it will cover the entire country...*".¹²⁶

The country's previous functioning civil registration system had collapsed following the Liberian Civil War, which began in 1999 and ended in 2003. Field assessments conducted by the Ministry of Health and Social Welfare indicate there had been no functioning and proper birth registration system since 2008. The number of children with birth certificates has steadily increased, as a result of decentralisation, and the introduction of regular birth registration campaigns. A significant number of births are not registered. Liberia (4%) previously ranked second after Somalia among the countries with the lowest level of birth registration, but this has increased to 25% in 2013 after decentralisation.¹²⁷

¹²⁴Ministry of Health and Social Welfare, "Birth Registration Improvement Plan (2014-2018)", section 3.1, available at http://www.mohsw.gov.lr/documents/UBR%20Improvement%20Plan_Final_2014.pdf

¹²⁵Ministry of Health and Social Welfare, "Birth Registration Improvement Plan (2014-2018)", section 1, available at http://www.mohsw.gov.lr/documents/UBR%20Improvement%20Plan_Final_2014.pdf

¹²⁶Ministry of Health and Social Welfare, "Birth Registration Improvement Plan (2014-2018)", section 4.1, available at http://www.mohsw.gov.lr/documents/UBR%20Improvement%20Plan_Final_2014.pdf

¹²⁷UNICEF, "More than 70,000 children born during the Ebola outbreak in Liberia at risk of exclusion if not registered, warns UNICEF", 31 July 2015, available at http://www.unicef.org/media/media_82699.html

Liberia's birth records and registrations have been significantly affected following the Ebola epidemic which began in January 2014. Liberia had to close a number of its health facilities which halted the birth registration process.¹²⁸

Where is the civil registry located in the government?

- () Ministry of Justice
- () Ministry of Interior
- () Electoral Agency
- () Independent Entity
- (X) Other - The registrar at each local district.

Law and other relevant instruments:

We did not find any legislation which sets out where the civil registry is located within the government.

Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?

Liberia applies a hybrid of both *jus sanguinis* and *jus solis*.¹²⁹ It is also a jurisdiction which determines citizenship by race. This is reflected in Article 27(b) of the 1986 Liberian Constitution ("**Constitution**"¹³⁰) and Chapter 20 of the 1973 Aliens and Nationality Law ("**ANL**").¹³¹

Article 27(b) of the Constitution states that, in order to "*preserve, foster and maintain the positive Liberian culture, values and character*", citizenship is restricted by birth or naturalisation to a person who is "*a Negro, or of Negro descent, born into Liberia*".¹³²

Both *jus sanguinis* and *jus soli* are applied in section 20.1 of the ANL, which provides detail on who should be considered a citizen of Liberia at birth:¹³³

- "a) A person who is a Negro, or of Negro descent, born in Liberia and subject to the jurisdiction thereof; or

¹²⁸ Thomson Reuters, "Ebola disrupts Liberia birth records, poses trafficking threat - UN", 31 July 2015, available at <http://www.reuters.com/article/liberia-ebola-births-idUSL5N10A31T20150731>

¹²⁹ Social Science Research Network, "Analysis of the Aliens and Nationality Law of the Republic of Liberia", May 2009, page 13, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1795122

¹³⁰ Constitution of the Republic of Liberia, available at <http://www.liberianlegal.com/constitution1986.htm>

¹³¹ Aliens and Nationality Law, amended in 1974, available at <http://www.pul.org.lr/doc/Liberia%20Alien%20Law.pdf>

¹³² Constitution of the Republic of Liberia, available at <http://www.liberianlegal.com/constitution1986.htm>

¹³³ Aliens and Nationality Law, amended in 1974, available at <http://www.pul.org.lr/doc/Liberia%20Alien%20Law.pdf>

- b) *A person born outside Liberia whose father (i) was born a citizen of Liberia; (ii) was a citizen of Liberia at the time of the birth of such child and (iii) has resided in Liberia prior to the birth of such child".*

Section 20.1 also states that:

"a child who is a Liberia citizen by virtue of (b) shall lose his citizenship unless he has resided in Liberia before attaining majority or unless when he has attained majority and before attaining the age of 23 he goes before a Liberian consul and takes an oath of allegiance to the Republic of Liberia".

Is there any legal obligation to register children?

Yes (X) No ()

If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.

The Public Health Law 1975, sets out that there is a legal obligation to register children.¹³⁴

Section 51.21.2 of the Public Health Law 1975 states that the *"birth of each child born alive in the Republic shall be registered...by filing...a report of such birth"*.

Section 51.26 states that every person responsible for reporting the birth of a child who fails to register within 14 days *"shall be liable to a civil penalty not to exceed fifty [Liberian] dollars"* (USD 0.56).¹³⁵ In practice, there does not seem to be an enforcement mechanism in place for this¹³⁶ and has not been actively enforced since the end of the civil war.¹³⁷

Does the child need to be registered within a certain amount of time from birth?

Yes (X) No ()

If yes, by when?

Section 51.21.2 of the Public Health Law 1975 provides that the birth must be registered within 14 days after the date of birth.¹³⁸ This shall be done at the Registrar of the district in which the birth occurred.

¹³⁴Public Health Law, Title 33, 1975, available at [http://mohsw.gov.lr/documents/Liberian%20Public%20Health%20Law%201976%20\(2\).pdf](http://mohsw.gov.lr/documents/Liberian%20Public%20Health%20Law%201976%20(2).pdf)

¹³⁵All conversions are approximate and were made at the time of writing using a commercial rate of exchange available at www.xe.com

¹³⁶Ministry of Health and Social Welfare, "Birth Registration Improvement Plan (2014-2018)", section 1, available at http://www.mohsw.gov.lr/documents/UBR%20Improvement%20Plan_Final_2014.pdf

¹³⁷UNICEF, "Every Child's Birth Right - Inequities and trends in birth registration", available at http://www.unicef.org/gambia/Every_childs_birth_right_-_inequities_and_trends_in_birth_registration_-_2013_report.pdf

¹³⁸Public Health Law, Title 33, 1975, section 51.21.2 available at [http://mohsw.gov.lr/documents/Liberian%20Public%20Health%20Law%201976%20\(2\).pdf](http://mohsw.gov.lr/documents/Liberian%20Public%20Health%20Law%201976%20(2).pdf)

Is a paper certificate issued as a result of the registration?

Yes (X) No ()

Section 51.23 of the Public Health Law 1975 states that upon completion of registration, the Registrar shall "furnish to the informant...a certificate of registration of birth, to be made out on a form...".¹³⁹

Different by region/area?

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

Is there a separate fee for the issuance of a paper certificate?

Yes () No (X)

Section 51.23 of the Public Health Law states that the certificate of registration should be furnished by the Registrar "without charge".¹⁴⁰

Different by region/area

Yes () No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

Birth Registration Fee

Yes () No (X) Conditional ()

Since 2012, Liberia has allowed registration of a child's birth free of charge until the age of 13.¹⁴¹

If yes, amount in USD:

Not applicable.

If it's conditional, please provide reasons/cases for exemption.

Not applicable.

Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration')

Yes (X) No ()

¹³⁹Public Health Law, Title 33, 1975, section 51.23 available at [http://mohsw.gov.lr/documents/Liberian%20Public%20Health%20Law%201976%20\(2\).pdf](http://mohsw.gov.lr/documents/Liberian%20Public%20Health%20Law%201976%20(2).pdf)

¹⁴⁰Public Health Law, Title 33, 1975, section 51.23 available at [http://mohsw.gov.lr/documents/Liberian%20Public%20Health%20Law%201976%20\(2\).pdf](http://mohsw.gov.lr/documents/Liberian%20Public%20Health%20Law%201976%20(2).pdf)

¹⁴¹Ministry of Health and Social Welfare, "Birth Registration Improvement Plan (2014-2018)", section 1, available at http://www.mohsw.gov.lr/documents/UBR%20Improvement%20Plan_Final_2014.pdf

It is possible to register a child at the age of 13 or above for a fee of 500 Liberian dollars (approximately USD 5.56).¹⁴² It is not clear if this is the current fee for registration of children over 13 years old.

If yes, amount in USD:

500 LD (USD 5.56)

Requirements for Birth Registration (tick what applies):

Identification of Child's Father (X) His Nationality (X)

Identification of Child's Mother (X) Her Nationality (X)

Marital Status ()

A birth certificate registration application form is available on the Ministry of Health and Social Welfare's website.¹⁴³ The specific requirements for birth registration are unknown, but a comparison with a Liberian application for a birth certificate for a delayed registration¹⁴⁴ suggests that the above would be required.

Are Stateless / Refugee Births Registered? Yes (X) No ()

As stated above, section 51.21 of the Public Health Law requires registration of all live births in Liberia.¹⁴⁵

Nevertheless, it is important to note that statelessness is a significant issue in Liberia. An estimated 4,000 children within the country, and 3,200 children outside the country are potentially stateless as a result of the civil wars from 1989 to 2003.¹⁴⁶

As outlined above, the right to Liberian nationality depends on whether the child is (i) born in Liberia or (ii) born outside of Liberia. For children born in Liberia, the registrars will consider whether the child is of "negro descent", as required by Article 27 of the 1986 Constitution of Liberia. However, for a person who is born outside Liberia, their eligibility is limited. Section 20.1(b) of the 1973 Aliens and Nationality

¹⁴²Ministry of Health and Social Welfare, "Apply for Birth Certificate", available at <http://www.statusin.org/7348.html>

¹⁴³Website of Ministry of Health and Social Welfare, available at http://www.mohsw.gov.lr/content_display.php?submenu_id=68&sub=submenu (accessed 07.04.2016 - website currently being updated)

¹⁴⁴Website of Ministry of Health and Social Welfare, "Application for delayed registration of birth", available at <http://mohsw.gov.lr/documents/BAF.pdf>,

¹⁴⁵Public Health Law, Title 33, 1975, section 51.23 available at [http://mohsw.gov.lr/documents/Liberian%20Public%20Health%20Law%201976%20\(2\).pdf](http://mohsw.gov.lr/documents/Liberian%20Public%20Health%20Law%201976%20(2).pdf)

¹⁴⁶UNHCR, "Stateless in Liberia", 25 September 2015, available at <http://www.unhcr.org/55faade36.html>

Law states that such a person can only become a citizen if their father is a Liberian national, he was a Liberian national at the time of birth and resided in Liberia prior to the birth of the child.¹⁴⁷

Nevertheless, based on provisions seen above, Liberia's legislation does not explicitly state that Liberian women can transfer their nationality to their child. Liberia has a stateless population based on the high numbers of women who left the country during its civil war and had children in exile with non-Liberians.¹⁴⁸ This means that their children could become stateless, and, therefore, remain unregistered by the authorities.¹⁴⁹

According to a UNHCR report¹⁵⁰, the Liberian Government has ensured that all refugee children born in Liberia and residing in refugee camps are registered and provided with birth certificates, in compliance with international obligations. However, births of refugees living in mixed communities or refugees from the Ivory Coast born in Liberia have not been subject to this birth registration exercise.¹⁵¹

Section 51.21.3 of the Public Health Law 1975 provides details of the birth registration of foundlings or deserted children:¹⁵²

"Any person who finds any living new born child deserted, shall forthwith report such finding to the nearest public welfare official, who shall make proper provision for the child and thereafter, if the parents are unknown, register the birth. The report of the finding of the child made by such public welfare official shall be filed with the local Registrar and shall constitute the birth record of such child".

Are children of single parents registered?

Yes (X) No ()

Based on the above information, children who were born in Liberia and had single mothers or fathers will be registered. Section 51.22 states that *"there shall be no specific statement on a birth report as to whether a child is born in wedlock or out of wedlock or as to the marital name or status of the mother"*.¹⁵³

¹⁴⁷ Aliens and Nationality Law, amended in 1974, available at <http://www.pul.org.lr/doc/Liberia%20Alien%20Law.pdf>

¹⁴⁸ UNHCR, "Stateless in Liberia", 25 September 2015, available at <http://www.unhcr.org/55faade36.html>

¹⁴⁹ UNHCR, "Stateless in Liberia", 25 September 2015, available at <http://www.unhcr.org/55faade36.html>

¹⁵⁰ UNHCR, "Universal Periodic Review: Liberia, Submission by the United Nations High Commissioner for Refugees", available at <http://www.refworld.org/pdfid/553a2ab54.pdf>

¹⁵¹ UNHCR, "Country operations profile - Liberia", available at <http://reporting.unhcr.org/node/2548>

¹⁵² Public Health Law, Title 33, 1975, section 51.21.3 available at [http://mohsw.gov.lr/documents/Liberian%20Public%20Health%20Law%201976%20\(2\).pdf](http://mohsw.gov.lr/documents/Liberian%20Public%20Health%20Law%201976%20(2).pdf)

¹⁵³ Public Health Law, Title 33, 1975, section 51.21.3 available at [http://mohsw.gov.lr/documents/Liberian%20Public%20Health%20Law%201976%20\(2\).pdf](http://mohsw.gov.lr/documents/Liberian%20Public%20Health%20Law%201976%20(2).pdf)

However, the ANL suggests that only children with single fathers would be considered for Liberian nationality, and only if their father has a connection with Liberia as described in sub-section 20.1(b) ANL.¹⁵⁴

Are all children born in the territory registered? Yes (X) No ()

Section 51.21 of the Public Health Law 1975 requires all births of each child born alive in Liberia to be registered.¹⁵⁵

If no, please provide list of those not registered.

Not applicable.

Other Requirements (if none, put not applicable)

Not applicable.

Registration System Set-up (this may not be in the legal framework)

Electronic Submission () Paper Submission () Both (X)

Section 51.21.2 of the Public Health Law provides that a report shall be made upon a "*form prescribed therefore by the Principal Registrar*".¹⁵⁶

However, recent efforts to decentralise the birth registration system provide the opportunity for Liberia to use electronic submission. Families in villages or towns can register their children with the Assistant Registrar at the office of the General Town Chief or at the local health facility. The district registrars compile and send these records electronically to the national database via smart phones. The county offices print the birth certificates which can be delivered to individual families.¹⁵⁷

Location of registration facilities (this may not be in the legal framework)

Capital city Yes (X) No ()

Other cities Yes (X) No ()

Villages Yes (X) No ()

Other _____

¹⁵⁴ Aliens and Nationality Law, amended in 1974, available at <http://www.pul.org.lr/doc/Liberia%20Alien%20Law.pdf>

¹⁵⁵ Public Health Law, Title 33, 1975, section 51.21.3 available at [http://mohsw.gov.lr/documents/Liberian%20Public%20Health%20Law%201976%20\(2\).pdf](http://mohsw.gov.lr/documents/Liberian%20Public%20Health%20Law%201976%20(2).pdf)

¹⁵⁶ Public Health Law, Title 33, 1975, section 51.21.2 available at [http://mohsw.gov.lr/documents/Liberian%20Public%20Health%20Law%201976%20\(2\).pdf](http://mohsw.gov.lr/documents/Liberian%20Public%20Health%20Law%201976%20(2).pdf)

¹⁵⁷ UNICEF website, "Liberia launches a decentralized birth registration and certification system for children", 30 July 2010, http://www.unicef.org/wcaro/2009_5526.html

The main official authorities are local registrars in each individual county in Liberia. Furthermore, families in villages or towns can register their children with the Assistant Registrar at the office of the General Town Chief or at the local health facility using the electronic submission procedure.

Birth Registration is required for:

Access to education Yes () No () Unclear (X) Law _____

There is no legal requirement to have a birth certificate to be enrolled in school. Nevertheless, some schools in Liberia require a child's birth certificate to facilitate enrolment. A survey by the Women's NGO Secretariat of Liberia found that 37.1% of the mothers who responded registered their child's birth on the basis that it was necessary to do so to enrol in school.¹⁵⁸

Section 4.4.1 of the Liberia Reform of Education Act 2011, which concerns primary education of children between 6-12 years of age, stated that this level of education "*shall be free and compulsory for all children of the age range for such school level...*".¹⁵⁹

Nevertheless, the Birth Registration Improvement Plan 2014-2018 states that the Ministry of Education should be a key partner in facilitating the registration of births. The Ministry of Health and Social Welfare will work with school authorities to ensure that a key requirement for future school enrolment, especially primary schools around the country, will be the presentation of birth certificates.¹⁶⁰

Obtaining a primary school diploma

Yes () No () Unclear (X) Law _____

Please see above. We did not find any specific legal provisions or government policies which suggests that a birth certificate is required.

Obtaining a secondary school diploma

Yes () No () Unclear (X) Law _____

Please see above. We did not find any specific legal provisions or government policies which suggests that a birth certificate is required.

Access to health (emergency services only)

Yes () No () Unclear (X) Law _____

¹⁵⁸International Development Law Organisation, "Liberia Country Report - Strengthening the Legal Protection Framework for Girls in India, Bangladesh, Kenya and Liberia", 2010, page 8, available at http://www.youthpolicy.org/library/wp-content/uploads/library/2010_Liberia_Country_Report_Eng.pdf.

¹⁵⁹Right to Education Project, "Right to Education Country Factsheet - Liberia", July 2012, available at http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/RTE_Country_Factsheet_Liberia_2012.pdf

¹⁶⁰Ministry of Health and Social Welfare, "Birth Registration Improvement Plan (2014-2018)", available at http://www.mohsw.gov.lr/documents/UBR%20Improvement%20Plan_Final_2014.pdf

We did not find any specific legal provisions or government policies which suggests that a birth certificate is required.

Access to health (primary health services only)

Yes () No () Unclear (X) Law _____

We did not find any specific legal provisions or government policies which suggests that a birth certificate is required.

Access to health (all services)

Yes () No () Unclear (X) Law _____

We did not find any specific legal provisions or government policies which suggests that a birth certificate is required.

Access to social security programmes / cash benefits

Yes () No () Unclear (X) Law _____

We did not find any specific legal provisions or government policies which suggests that a birth certificate is required.¹⁶¹

Nationality

Yes () No () Unclear (X) Law _____

An individual does not need a birth certificate in order to obtain Liberian nationality.

As outlined above, Article 27(b) of the Constitution states that citizenship is restricted by birth or naturalisation to a person who is "*a Negro, or of Negro descent, born into Liberia*".¹⁶² Section 20 of the ANL sets out that a child born in Liberia is a citizen if they are "*a Negro or of Negro descent*". Furthermore, a child born outside of Liberia is a citizen if their "*father (i) was born a citizen of Liberia; (ii) was a citizen of Liberia at the time of the birth of such child and (iii) has resided in Liberia prior to the birth of such child*".¹⁶³

Liberian nationality can be obtained through naturalisation and we cannot find any provisions that state that a birth certificate is required for this process. Naturalisation can be gained in a number of ways.

If an individual would like to obtain nationality through naturalisation in their own right, then they need to first make a declaration of intent to naturalise before a Circuit Court, followed by the actual petition for naturalisation which must be filed between the second and third anniversary dates of the

¹⁶¹National Social Security and Welfare Corporation, "National Pension Scheme", available at <http://nasscorp.org.lr/index.php/schemes-benefits/national-pension-scheme>

¹⁶²Constitution of the Republic of Liberia, available at <http://www.liberianlegal.com/constitution1986.htm>

¹⁶³Aliens and Nationality Law, amended in 1974, available at <http://www.pul.org.lr/doc/Liberia%20Alien%20Law.pdf>

declaration of intent. The applicant must be at least 21 years of age at the time of the petition¹⁶⁴, must renounce any previous nationalities and must take an Oath of Allegiance to the Republic of Liberia.

The eligibility requirements for naturalisation are as follows:

- The applicant must be "a Negro or of Negro descent".¹⁶⁵
- The applicant must have maintained continuous and lawful residence in Liberia for at least two years immediately preceding the date of filing the petition for naturalisation and must reside in Liberia from the date of petition up to the admission of citizenship. Absence for more than six months during this period will break the continuity of residence.¹⁶⁶
- The applicant must have been lawfully admitted to Liberia.¹⁶⁷
- The applicant must be of good moral character and believe in the principles of the Constitution.¹⁶⁸

Section 21.31 provides that a child can gain nationality through the naturalisation of their father:

"A child born outside Liberia of alien parents, or of a citizen mother and a father who was not born a citizen of Liberia, becomes a citizen of Liberia through naturalisation of the father if a) such naturalisation takes place while such child is under the age of 21 years; and (b) such child is residing in Liberia following lawful admission for permanent residence at the time of the naturalisation of the father, or thereafter begins to reside permanently in Liberia while under the age of 21 years".

No similar provisions are available for the children born outside of Liberia of women naturalised as Liberian citizens.¹⁶⁹

Section 21.32 restores the Liberian nationality to women who, under the operation of previous nationality law, have lost their Liberian nationality as a result of a marriage to a non-Liberian husband, but have not acquired any foreign nationality except any automatically conferred by marriage.¹⁷⁰

¹⁶⁴ Aliens and Nationality Law, amended in 1974, section 21.3.2, available at <http://www.pul.org.lr/doc/Liberia%20Alien%20Law.pdf>

¹⁶⁵ Aliens and Nationality Law, amended in 1974, section 21.1.1, available at <http://www.pul.org.lr/doc/Liberia%20Alien%20Law.pdf>

¹⁶⁶ Aliens and Nationality Law, amended in 1974, section 21.1.2, available at <http://www.pul.org.lr/doc/Liberia%20Alien%20Law.pdf>

¹⁶⁷ Aliens and Nationality Law, amended in 1974, section 21.1.3, available at <http://www.pul.org.lr/doc/Liberia%20Alien%20Law.pdf>

¹⁶⁸ Aliens and Nationality Law, amended in 1974, section 21.1.4, available at <http://www.pul.org.lr/doc/Liberia%20Alien%20Law.pdf>

¹⁶⁹ Social Science Research Network, "Analysis of the Aliens and Nationality Law of the Republic of Liberia", May 2009, page 13, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1795122

¹⁷⁰ Social Science Research Network, "Analysis of the Aliens and Nationality Law of the Republic of Liberia", May 2009, page 13, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1795122

Liberian nationality law provides no special considerations for a non-Liberian spouse of a Liberian citizen. These individuals can only acquire Liberian nationality through the naturalisation procedure outlined above.¹⁷¹

Identification card

Yes (X) No () Law _____

The National Identification Registry authorise and create ID cards for Liberian Citizens. A birth certificate is required to make the application for an ID card.

Further requirements include the following:¹⁷²

- Applicants must be citizens of Liberia;
- Applications must be submitted in person and the applicant should be in the country at the time of submitting an application;
- Applicants must ensure that all documents submitted are true copies;
- Applicants must meet the age limit and residential requirements;
- The applicant must endeavour to register within the given period of time; and
- Late registration will require payment of a fee.

However, it is important to note that the sources available on this process are secondary sources as we could not find a primary source to verify the information.

Passport

Yes () No (X) Law _____

The passport application form for Liberia outlines the requirements for submitting an application and the evidence required to do so. The form states that if the individual applying is Liberian they need to "provide *Birth Certificate/Liberian Passport/Road to Health Chart/National ID Card*".¹⁷³ The birth certificate is only one of the documents that an individual can use to prove their citizenship.¹⁷⁴

Other (Please specify e.g. enrolment for social protection programme/ food bank)

Not applicable.

¹⁷¹Open Society Foundations, "Citizenship Law in Africa: A Comparative Study", 2010, available at https://www.opensocietyfoundations.org/sites/default/files/citizenship-africa_20101118.pdf

¹⁷²Wikipedia, "Liberia - Apply for National Identification Card", available at http://www.wikipedia.com/index.php/Liberia_-_Apply_for_National_Identification_Card

¹⁷³Republic of Liberia Bureau of Passports and Visas, "Liberian ECOWAS Biometric Passport Application Form", available at http://www.mofa.gov.lr/public2/doc/Final_Copy_Passport_Form.pdf

¹⁷⁴ECOWAS Passport, "Requirements for the acquisition of an ordinary Liberian passport", available at <http://www.liberiapassports.com/info/requirement.aspx>

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