BIRTH REGISTRATION - PHASE TWO
A Comparative Report Prepared for UNICEF

May 2016
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given the nature of desk based research, some legislation was not available in English (or at all) and some may be outdated, although it was not always clear when this was the case.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](http://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". 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 newborn babies.

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?
(X) Ministry of Interior

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.

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".

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".

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.

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.

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 (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. If applying for citizenship when living in Los Angeles, the names of the father and grandfather are required only 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.

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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.\(^\text{10}\)

**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.\(^\text{11}\) 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.\(^\text{12}\)

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.\(^\text{13}\) 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"\(^\text{14}\) though they note that under a

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new system of registration between March 2010 and March 2011, 225,541 children were "registered and issued birth certificates".  

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" 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" 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.

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**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.

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

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mosques and EPI (expanded program of immunisation) fixed centres in health facilities. These Assistant Registrars must also report on monthly registration data.

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.

Birth within Afghanistan does not automatically confer citizenship on children, with the exception of children of unknown or stateless parents 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".

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...

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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". 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".

UNICEF has previously noted that provincial-level birth registration started in Kabul, although this was initially limited to a few maternity hospitals. It has not been possible to find exact locations of registration facilities in the country.

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**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. 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". We have seen no evidence to

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suggestion 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". 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. 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. This statement in itself suggests that at present access to such services are not determined by possession of a birth certificate.

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. 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". 

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".

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.


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.  

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.

References

Legislation Reviewed:
- The Constitution of Afghanistan Year 1382, available at
  http://www.afghan-web.com/politics/current_constitution.html
- Education law, 31/4/1387, Official Gazette No. 955, available at
  http://planipolis.iiep.unesco.org/upload/Afghanistan/Afghanistan_Education_law.pdf
- Law of Passports in Afghanistan, 15 Mizan 1318, available at
  http://www.asianlii.org/af/legis/laws/lqop194/
  http://www.refworld.org/docid/544a4c434.html
  http://www.refworld.org/docid/404c988d4.html

Further Sources:
  http://www.refworld.org/pdfid/4a03f56b2.pdf
- Immigration and Refugee Board of Canada, "Responses to Information Requests ", (2011), available at
  https://www.justice.gov/sites/default/files/eoir/legacy/2014/01/16/AFG103918.E.pdf
  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%2C+1992&sour ce=bl&ots=P0zHPKVc21&sig=_r8sLYiOcSw3sMIIIdiBmzt2TbTU&hl=en&sa=X&ved=0ahUKEwjkr5y Xme3JAhXM1hoKHFLLAsUQ6AEAiKTAB%20-%20v=onepage&q=Official%20Gazette%20of%20the%20Ministry%20of%20Justice%20of%20the%20Republic%20of%20Afghanistan%20dated%20March%2019%2C%201992&f=false#v=snippet&q=Official%20Gazette%20of%20the%20Ministry%20of%20Justice%20of%20the%20Republic%20of%20Afghanistan%20dated%20March%2019%2C%201992&f=false
- UNHCR, "Frequently Asked Questions - National Identification Cards (Tazkeras)", available at
  http://www.unhcr.org/4497b1c12.pdf
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


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.\textsuperscript{40}

\begin{itemize}
  \item \underline{Name of official authority in charge of registering a child’s birth:}
  
  The Service de l'Etat Civil.

  \underline{Where is the civil registry located in the government?}

  \begin{itemize}
    \item ( ) Ministry of Justice
    \item (X) Ministry of Interior
    \item ( ) Electoral Agency
    \item ( ) Independent Entity
    \item ( ) Other
  \end{itemize}

  \underline{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.\textsuperscript{41}

  \underline{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.

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

  Yes (X)  No ( )

  If yes, by when?

\end{itemize}

\begin{itemize}
  \item \textsuperscript{40} United States Department of State (Bureau of Democracy, Human Rights and Labour), "Chad Human Rights Report 2013", p 20, available at \url{http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dlid=220096}
  \item \textsuperscript{41} United States Department of State (Bureau of Democracy, Human Rights and Labour), "Chad Human Rights Report 2013", p 20, available at \url{http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dlid=220096}
\end{itemize}
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.\(^{42}\)

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**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).\(^{44}\)

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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 2007\(^{50}\) 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 .


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. 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.

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. 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.

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. Prior to the passing of this law, children born to refugees from Sudan were not...

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51 Ordonnance 33/PG.-INT. du août 1962 code de la nationalité tchadienne, Article 9, available at [http://www.refworld.org/docid/492e931b2.html](http://www.refworld.org/docid/492e931b2.html).


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. A Chadian journal, “Le Citoyen” no. 036 of 5 - 12 May 2014 reported that about 84.3% of Chadians are still without birth certificates.

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.

Births are registered at the civil registry in the municipality in which the birth took place. There are various types of civil registry offices - the civil registry itself, main civil registry offices and branches of

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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.

the civil registry. Each has the authority to accept birth registrations and provide certificates. 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.

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. 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.

Location of registration facilities (this may not be in the legal framework)

<table>
<thead>
<tr>
<th>Capital city</th>
<th>Yes ( ) No ( )</th>
</tr>
</thead>
<tbody>
<tr>
<td>Other cities</td>
<td>Yes ( ) No ( )</td>
</tr>
<tr>
<td>Villages</td>
<td>Yes ( ) No ( )</td>
</tr>
<tr>
<td>Other</td>
<td>(X)</td>
</tr>
</tbody>
</table>

Births are registered at the civil registry in the municipality in which the birth took place.

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". This implies that birth certificates


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.


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

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A citizen requires a birth certificate in order to adopt a child under the age of 16\textsuperscript{71}, and to run as a political candidate in the presidential elections, regional elections, rural elections or municipal elections.\textsuperscript{72}


References

Legislation Reviewed:

Further Sources:
- 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
- Le Wiki de l'adoption, Tchad, available at


UNHCR, "I am here, I belong - The urgent need to end childhood statelessness", available at http://www.unicef.org/protection/files/FINAL_ENGLISH_PDF.pdf


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. 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.

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 child.

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child. 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". 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.

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". 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") 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.

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. 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. 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. 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".

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.

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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
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. 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. 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.

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 Constitution 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".

The key piece of legislation concerning nationality in Ethiopia is the Proclamation on Ethiopian Nationality (Proclamation Number 378/2003) ("Nationality Proclamation"). 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.

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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. 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. 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. 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.

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The value accorded to birth certificates obtained from churches, hospitals and municipalities is not equal and uniform:

<table>
<thead>
<tr>
<th>Acceptable documents and mechanisms of verifying age</th>
<th>Circumstances when the verification of age or birth date is required</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>For school enrolment</td>
</tr>
<tr>
<td>Certificates from municipalities</td>
<td>X</td>
</tr>
<tr>
<td>Certificates from churches</td>
<td>X</td>
</tr>
<tr>
<td>Certificates from hospitals</td>
<td>X</td>
</tr>
<tr>
<td>Medical examination</td>
<td>X</td>
</tr>
<tr>
<td>Vaccination card</td>
<td>X</td>
</tr>
<tr>
<td>Kebele ID card</td>
<td>X</td>
</tr>
<tr>
<td>Personal observation</td>
<td>X</td>
</tr>
<tr>
<td>8th grade examination card</td>
<td>X</td>
</tr>
</tbody>
</table>

**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. 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).

**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.

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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 Proclamation\textsuperscript{99} 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 Proclamation\textsuperscript{100} 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 Proclamation\textsuperscript{101} 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.\textsuperscript{102} In this case, under Article 26(2) and Article 26(3)\textsuperscript{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.

\begin{itemize}
\item \textsuperscript{99} Proclamation No. 760/2012, Article 3
\item \textsuperscript{100} Ethiopian Nationality (Proclamation Number 378/2003)
\item \textsuperscript{101} Proclamation No. 760/2012
\item \textsuperscript{102} Proclamation No. 760/2012
\item \textsuperscript{103} Proclamation No. 760/2012
\end{itemize}
Are children of single parents registered?

Yes (X)  No ( )

There is no legal prohibition for registration of children of single parents.\textsuperscript{104}

The Revised Family Code (Proclamation No. 213/2000) ("Family Code Proclamation")\textsuperscript{105} provides the means for establishing paternity of children born out of wedlock. Article 154 of the Family Code Proclamation\textsuperscript{106} specifies that both the paternal and maternal filiation of a person is proven by their record of birth. The Family Code Proclamation\textsuperscript{107} 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 Proclamation\textsuperscript{108}, 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 ( )

\textsuperscript{104} Confirmed by email by Mehrteab Leul & Associates, 25 February 2016


\textsuperscript{106} Proclamation No. 213/2000,

\textsuperscript{107} Proclamation No. 213/2000

\textsuperscript{108} Proclamation No. 760/2012
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,\(^{114}\)

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\(^{110}\) Confirmed by email by Mehrteab Leul & Associates, 14 January 2016


\(^{113}\) Janneke 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.\footnote{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. 40, available at \url{http://unstats.un.org/unsd/vitalstatkb/KnowledgebaseArticle50671.aspx}}

**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".\footnote{Proclamation No, 650/2009, Higher Education Proclamation, available at \url{http://www.refworld.org/docid/4ba7a6152.html}}

**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.\footnote{Confirmed by email by Mehrteab Leul & Associates, 14 January 2016}

**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.\footnote{Confirmed by email by Mehrteab Leul & Associates, 14 January 2016}

**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.\footnote{Confirmed 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 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 Constitution\(^ {121}\) 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 Proclamation\(^ {122}\) 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, Tigregna 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

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\(^{119}\) Confirmed by email by Mehrteab Leul & Associates, 25 February 2016
\(^{120}\) Confirmed by email by Mehrteab Leul & Associates, 14 January 2016
\(^{121}\) Federal Democratic Republic of Ethiopia Constitution, Article 36
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


References

Legislation Reviewed:

Further Sources:
- Email correspondence with Mehrteab Leul & Associates
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

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\(^{128}\) All conversions are approximate and were made at the time of wiring using a commercial rate of exchange available at www.xe.com.


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:\textsuperscript{132}

\(\text{(1) A person will be a Guinean citizen by origin if they are}\)

\(a)\) 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:\textsuperscript{133}

\(\text{(1) A person will be a Guinean citizen by origin if they are}\)

\(\ldots\)

\(c)\) 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.\textsuperscript{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.

\textsuperscript{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

\textsuperscript{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

\textsuperscript{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

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

Yes (X)  No (  )

A paper birth certificate is issued.

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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%2FPPRiCAghKb7yhstK6vY SguNL5x9gjkZOq220X%2BNy38seqPXR6oo14gDkbRKu0DCyYyqoxCFPGy%2Fdr1EY7543xJ%2F dwuzgBMntFvIOJO780LgHFhiofPrOXHR%2F1


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


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.\textsuperscript{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.\textsuperscript{141}


\textsuperscript{141} The 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 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 ( )
Identification of Child’s Mother ( )
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://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAghKb7yhstK6yYSGu1NL5x9glkZQg22QX%2BNy38segPxR6oo14qDkbRKu0DCyYgoxFPGY%2Fdr1EY7543xJ%2FduwzgBMntFvJO78OLgHFlhofPr0XHR%2F1

143 The Law of Citizenship (found at 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. 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. 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.

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: _______

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.  

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.

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.  

### 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.

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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
References

**Legislation Reviewed:**
- Civil Law Code, available at http://landwise.resourceequity.org/record/852
- Lei da Nacionalidade 1992, available at http://www.refworld.org/publisher,NATLEGBODY,LEGISLATION,GNB,4e3fa9c32,0.html

**Further Sources:**
- 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
- Tudo Num Click news website, "Hospital de Bissau tem Registo Civil para bebés", November 2015, available at http://tudonumclick.com/noticias/mundo/68320/hospital-de-bissau-tem-registo-civil-para-bebes
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 Lesotho\(^{151}\) (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:

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\(^{150}\) Registration of Births and Death Act 1973, hard copy provided by African Legal Information Institute (University of Cape Town).


“(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

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 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.

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.\(^\text{155}\)

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.
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)

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Registration of Births and Deaths Regulations of 1974, hard copy provided by African Legal Information Institute (University of Cape Town).
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 Mohale's Hoek, the capital of Mohale's Hoek District in Lesotho.

Birth Registration is required for:

Access to education

Yes (X) No ( ) Law: Education Act 2010\textsuperscript{157}, 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 –

\begin{itemize}
  \item [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;
  \item [b)] primary education is compulsory and available to all;
\end{itemize}

\textsuperscript{157}Education Act 2010, Act No 3 of 2010, available at \url{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, 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.

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 Strategy ("NSPS") and The Lesotho Child Grants Programme ("CGP") 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 1971 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 ______


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.

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References

Legislation Reviewed:
- 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:
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).  
- 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.  

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 1966 provides for jus sanguinis determination of nationality.

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

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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**\(^{169}\)

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.

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**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 2016\(^{171}\) 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...

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\(^{169}\) The direct translation of the legislation states "Children found exposed", but it is likely this means children who has been abandoned.


of funding\(^{172}\) 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 2.80\(^{175}\)) 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.

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\(^{175}\) All conversions are approximate and were made at the time of writing using a commercial rate of exchange available at www.xe.com.

\(^{176}\) Website 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

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177 National Registration Act 2009, section 2.
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 register\(^\text{180}\) which shall comprise the Births, Marriages and Deaths register recorded at the village, traditional authority, district and national levels.\(^\text{181}\)

The Registration Act goes on to state that there shall be a Director and a Deputy Director of National Registration appointed by the Minister\(^\text{182}\) and that the Director may delegate any or all of his duties to a district registrar within the area of a district.\(^\text{183}\) Every District Commissioner or Chief Executive shall perform this role for the district over which he has the authority.\(^\text{184}\) 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.\(^\text{185}\)

\(^{180}\)National Registration Act 2009, section 3(1).
\(^{181}\)National Registration Act 2009, section 3(2).
\(^{182}\)National Registration Act 2009, section 4.
\(^{183}\)National Registration Act 2009, section 5(1).
\(^{184}\)National Registration Act 2009, section 5(2).
\(^{185}\)National Registration Act 2009, section 6.
Two registers are to be maintained: a district register and a national register. 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. Every unregistered person must then within 14 days attend the nearest district registrar and register himself in the prescribed manner. 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.

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

\[186\] National Registration Act 2009, section 7.
\[187\] National Registration Act 2009, section 10.
\[188\] National Registration Act 2009, section 10(3).
Each district registrar is obliged to keep and maintain a district register of those who live within their
district. 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.
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.

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. However, in 2011, completeness of birth registration in Malawi was predicted to be as low as 2.3%. 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". 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. 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.

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193 This 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](http://www.unicef.org/infobycountry/malawi_statistics.html)


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,\textsuperscript{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 1999\textsuperscript{198} 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 2010\textsuperscript{199} 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

\textsuperscript{197}The Constitution of Malawi
\textsuperscript{198}Employment Act 1999 (No 6 of 2000), available at http://www.ilo.org/dyn/natlex/docs/WEBTEXT/58791/65218/E00MWI01.htm
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 1966

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. 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.

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".

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200 The Citizenship Act 1966
201 The Citizenship Act 1966, section 4
202 The Citizenship Act 1966, section 5
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.
References

Legislation Reviewed:

- The National Registration Act 2009, a copy of which is attached to this report at Appendix 1.

Further Sources:

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.

In this Act, unless the context otherwise requires-

'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.

- (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.

- (1) The Director may delegate any or all of his duties to be performed by a district registrar within the area of a district.

- (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 cease 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.

- (1) The Director shall keep or cause to be kept and maintained a national register of all persons-

(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.

- (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).

- (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,
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 fingerprint 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,

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.

- (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.
- (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.

- (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 envy 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.
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.

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.

- (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.

- (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.

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.

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
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.

- (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.

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.

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 guarding 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.

- (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.

- (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.

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.

- (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.

- (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.

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.

Every person registering a death 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.

- (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
The registrar is satisfied that from any other cause registration could not be
affected 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.

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.

- (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.

- (1) The Director shall cause to be prepared from the returns made to him
alphabetical indexes of the births, marriages and deaths registered.

- (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-

(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.

-(1) Any person who
(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-

(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.

- (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.

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.

- (1) The Minister may make regulations for the better carrying out of the purposes of this Act.

- (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 un registered, 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

The Births and Deaths Registration Act is repealed.

- (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.
- (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 \textit{jus sanguinis} (nationality determined by natural parents) or \textit{jus soli} (nationality determined by birth location) in their legal (constitutional) framework?
The Solomon Islands applies \textit{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):

\textit{"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."}

\(^{204}\) 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

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.

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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

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**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.

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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 2015\(^{212}\) 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 ($12.29\(^{214}\) 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.\(^{217}\)


\(^{213}\) Births and Deaths (Registration) Act 1998, section 13, available at www.paclii.org/sb/legis/consol_act/bada301.rtf

\(^{214}\) All conversions are approximate and were made at the time of writing using a commercial rate of exchange available at www.xe.com.

\(^{215}\) Births and Deaths (Registration) Act 1998, section 18, available at www.paclii.org/sb/legis/consol_act/bada301.rtf

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 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:

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.

Are Stateless / Refugee Births Registered?

Yes (X) No ( )

The Registration Act 1896 requires ministers to record the birth of foreigners in the territory. 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.

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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](http://unicefpacific.blogspot.co.uk/2015/08/a-child-who-is-not-registered-at-birth.html)


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. 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. According to the Registration Act 1896, ministers must record the births of foreigners that occur within the territory.

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.

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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. 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.

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 county (assuming internet access is available) by a qualified and authorised entry clerk and linked up to the Solomon Islands Government network.

While the e-Birth Registration Database has been set up as of February 2013, 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.

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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 centres\(^{231}\) 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 provinces\(^{233}\) (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.\(^{234}\)


\(^{232}\) 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


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.  

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 Islands 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. 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.

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The Government provides free basic healthcare to all in the Solomon Islands, but medical facilities in clinics and hospitals are very limited. 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.

**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).

Solomon Islands has very limited formal social protection provisions and over the years the country has made little progress in extending social protection.

The social security system in the Solomon Islands is limited to the Solomon Islands National Provident Fund, 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.

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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

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244 UNICEF, "Solomon Islands witness the launch of its new electronic civil registration system", available at [http://www.unicef.org/pacificislands/1852_22150.html](http://www.unicef.org/pacificislands/1852_22150.html)


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

References

Legislation Reviewed:

Further Sources:


UNICEF, "Solomon Islands witness the launch of its new electronic civil registration system" available at http://www.unicef.org/pacificislands/1852_22150.html


Tanzania

Key points

- It is important to note that different laws regarding birth registration apply to mainland Tanzania and Zanzibar. There are also regional variations between birth registration systems.
- Birth registration in Tanzania is compulsory within three months of the child's birth and within 42 days in Zanzibar.
- 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").

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.

Where is the civil registry located in the government?

(X) Ministry of Justice

( ) Ministry of Interior

( ) Electoral Agency

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252 The Births and Deaths Registration Act 1920, Section 11

253 Births and Deaths Registration Act, No 10 of 2006, Section 9(1)


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".

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257 Births and Deaths Registration Act (CAP 108, R.E. 2002)

258 Births and Deaths Registration Act (No.10 2006)

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 $1.60\textsuperscript{260}) if a birth certificate is requested within 90 days of a child's birth or 4,000 TZS (approximately $1.83) thereafter.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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".

\textsuperscript{260}All conversions are approximate and made at the time of writing the report using a commercial exchange rate, available at www.xe.com .


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.

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) 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".

Note. 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.

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**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.\footnote{UNICEF, "Scaling up Birth Registration in Tanzania 2015-2019", p.3, available at \url{http://www.millicom.com/media/3789925/Scaling-up-Birth-Registration-in-Tanzania-2015-2020.pdf}}

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.\footnote{UNICEF, "Tanzania rolls out birth registration by mobile phone", 16 October 2015, available at \url{http://www.unicefstories.org/2015/10/16/tanzania-rolls-out-birth-registration-by-mobile-phone/}}

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.\footnote{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 \url{http://www.unicef.org/tanzania/7162_13082.html}}

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.\footnote{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 \url{http://www.refworld.org/publisher_CRC,STATEPARTIESREP,TZA,54ae89254,0.html}}

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".
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. 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.

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. 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. 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.

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."

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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. 

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. Compulsory registration is undertaken in dispensaries and health centres situated in villages.

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 database 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.

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279 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](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.

**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.

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:

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"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.
References

Legislation Reviewed:

Further sources:
- 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

