

Centre for Child Law submissions
On the Digitalization of Birth Registration
In Africa: challenges and opportunities
for children's rights

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1 Introduction

The Centre for Child Law ('CCL' / the Centre) acknowledges and welcomes the invitation by the African Committee of Experts on the Rights and Welfare of the Child to provide comments on the theme "Digitalization of Birth Registration in Africa: Challenges and Opportunities for Children's Rights." We commend the Committee for addressing this critical issue, which has far-reaching implications for the realisation of children's rights across the continent.

In South Africa, the CCL has consistently engaged in research, advocacy, and strategic litigation to improve access to birth registration, particularly for children from marginalised and vulnerable communities. The CCL notes that birth registration is a foundational right under the African Charter on the Rights and Welfare of the Child (Article 6), and a crucial gateway to a child's legal identity and access to services. Our work seeks to ensure that every child's right to a legal identity, as enshrined in domestic, regional, and international law, is fully protected and upheld.

2 About the Centre for Child Law

The CCL is a child rights organisation registered with the Legal Practice Council as a law clinic in terms of the Legal Practice Act. It is situated and operates at the University of Pretoria, Faculty of Law. The CCL contributes towards the protection and promotion of the best interests of children in South Africa through research, advocacy, litigation, and education.

3 Summary of the submissions

In our submissions, we will address the legislative framework in South Africa, the current status of birth registration, opportunities and benefits, challenges, and recommendations on what can be improved to enhance digital birth registration not only in South Africa but also regionally.

4 Birth registration and legislative framework in South Africa

South Africa's birth registration framework is grounded in a combination of constitutional and statutory provisions that apply to all children born in the country, regardless of their parents' nationality or status. This framework ensures that every child's right to identity, name, and nationality is protected.

The Constitution of the Republic of South Africa, 1996

[The Constitution of the Republic of South Africa](#), specifically Section 28(1)(a), guarantees every child the right to a name and nationality from birth. These rights are considered foundational to legal identity and essential for accessing other rights like equality, dignity, and freedom of movement.

Births and Deaths Registration Act 51 of 1992 (BDRA):

[The Births and Deaths Registration Act](#) establishes the legal requirement for birth registration, stating that all live births in South Africa must be registered with the Department of Home Affairs (DHA). Registration is mandated within 30 days of birth. Parents, legal guardians, or other prescribed individuals, such as social workers or family members, are permitted to register a child's birth. The BDRA applies universally to children born to South African citizens, permanent residents, refugees, asylum seekers, and undocumented foreign nationals.

Differential Registration Procedures:

While the BDRA applies broadly, the source highlights that the type of birth certificate and registration procedure vary based on the parents' status. Children of South African citizens, permanent residents, or refugees/asylum seekers generally receive a computerised, unabridged birth certificate with an ID number and are included in the National Population Register. However, children of undocumented or non-resident foreign nationals receive a handwritten birth certificate without an ID number and are not entered into the Population Register. These handwritten certificates are not digitised and cannot be reissued.

Regulations on the Registration of Births and Deaths (2014):

[These regulations](#) supplement the BDRA by detailing procedures and eligibility criteria. While aiming for universal coverage, the regulations have been criticised for potentially creating procedural obstacles, especially for migrant, refugee, and stateless children, who may find it difficult to meet documentation requirements. The regulations include provisions for late registration, but with stricter requirements. They also mention the phasing out of handwritten certificates, though they are still used for children of undocumented foreign parents.

South African Citizenship Act 88 of 1995 (as amended) (SACA):

[The South African Citizenship Act](#) links birth registration to citizenship rights. Children born to South African parents automatically acquire citizenship. The Act also provides potential pathways to citizenship under specific conditions for children born to permanent residents or parents with refugee status, and critically, Section 4(3) offers a pathway to citizenship for children born in South Africa who would otherwise be stateless and have resided in the country for until they turned 18 years.

5 The current status of digital birth registration in South Africa

South Africa has made substantial progress in digitising aspects of civil registration, especially birth registration. However, persistent disparities and systemic challenges continue to hinder equitable access.

5.1 Digital transformation and integration in health facilities

The Department of Home Affairs (DHA/Department) has implemented an online birth registration system in public hospitals, with registration units operational in maternity wards nationwide.¹ According to DHA, in their strategic plan for 2025 - 2030, the digital transformation plan includes the automation of the birth registration process for both citizens and foreign nationals.² A significant initiative within this plan will be the rollout of an online birth registration system at high-volume health facilities, which enables the registration of births and the issuance of certificates on the spot.

This integration with health facilities aims to facilitate early birth registrations by allowing parents to register their children before the mother is discharged. As of March 2024, DHA had established a presence and equipped 391 health facilities with birth registration systems. However, the specific target for 2023/24 was to equip 91 Priority 2 and 3 health facilities with the online birth registration system, but only 8 facilities were successfully equipped due to challenges with connectivity and limited IT capacity.³ This often forces parents, especially in

¹ Department of Home Affairs Annual Report 2023/2024 available at https://www.gov.za/sites/default/files/gcis_document/202501/dha-annual-report2023-2024_0.pdf.

² Department of Home Affairs Strategic Plan 2025 – 2030 available at <https://www.dha.gov.za/images/AnnualReports/DHA-STRATEGIC-PLAN-25-30.pdf>

³ As above (n2).

rural and low-income areas⁴, to incur travel costs to register their child at a DHA office, potentially delaying registration beyond the 30-day window.

Additionally, automated birth registration functionality is being considered as a risk mitigation strategy at 47 health facilities. The budget for 2025/26 allocates R21 million for the rollout of the online birth registration system and R16 million for the automated birth registration functionality for both citizens and foreigners at these facilities.

5.2 Biometric identity development

The DHA, in partnership with the Council for Scientific and Industrial Research (CSIR), has developed a Draft Biometric Identity Management Policy.⁵ This proposes capturing children's biometrics shortly after birth and linking them to a national digital identity system. The policy also outlines re-registration at age five to verify and strengthen identity records.⁶ While this system holds significant promise for long-term identification and protection of children, its rollout remains in the planning stage and has not yet been legally adopted.

5.3 Overall birth registration performance in South Africa

South Africa has achieved a high national birth registration rate. The most recent data on recorded live births from Statistics South Africa (Stats SA), released in December 2023, reveals that the Department of Home Affairs (DHA) registered a total of 998,362 births in 2022. Of these registrations, approximately 911,986 (91.3%) reflect births that occurred in 2022, while 86,376 (8.7%) are late registrations.⁷ This reflects strong national capacity and a commitment to universal birth registration. However, timely registration, within 30 days, is still hindered for children born outside of hospitals or in communities with limited access to digital infrastructure.

5.4 National Identification and Registration Bill, 2022

⁴ UNICEF 2024 "The Right Start in Life: Global levels and trends in birth registration" available at file:///C:/Users/u05162948/Downloads/UNICEF_The-Right-Start-in-Life_Dec-2024.pdf.

⁵ DRAFT OFFICIAL IDENTITY MANAGEMENT POLICY (2020) available at https://www.gov.za/sites/default/files/gcis_document/202101/44048gon1425.pdf; See further Department of Home Affairs Strategic Plan 2025 – 2030 available at <https://www.dha.gov.za/images/AnnualReports/DHA-STRATEGIC-PLAN-25-30.pdf>.

⁶ As above (n5).

⁷ Statistical Release P0305: Recorded live births 2022 Embargoed until 13 December 2023 09:00 available at: <https://www.statssa.gov.za/publications/P0305/P03052022.pdf>.

In 2023, the Department of Home Affairs proposed a draft National Identification and Registration, 2022. The Bill is aimed at establishing a single, integrated national identification system. It proposes a new system to replace the existing, fragmented databases and streamline the process of identification for citizens and residents. The Bill also seeks to establish a population register and an identification database, and to standardise the issuance of identity cards and certificates. The Department then called on the public to make written submissions on the proposed Bill. The CCL, in collaboration with LHR, tendered written submissions, where the CCL focused on the impact of the proposed legislation on children.⁸

Clause 16(1) of the Bill mandates that individuals whose particulars are in the database and who have reached the age of 10 years must apply for an identity card within 30 days of their 10th birthday. We express significant concerns about this provision, as it is impractical and an "unjustifiably heavy administrative burden" for children in general, particularly for separated or unaccompanied minors who cannot realistically be expected to carry or store an ID card. We are of the view that it is not in the best interests of the child and lacks a legitimate rationale, violating South Africa's constitutional and international obligations to protect children's rights.

Clause 20 further provides that an authorised officer may, at any time, request any person reasonably presumed to have attained the age of 16 years to prove their identity by producing their identity card or any other state-issued proof of identity that includes their name and photograph. Clause 26 further specifies that any person who "contravenes a provision of section 20(1)" is guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding five years. While this provision directly penalises the *contravention* of the request to produce an ID, if a person does not possess an ID, they would be unable to comply with the request to "produce" it. This could be interpreted as a contravention, thereby implicitly exposing particularly children, who do not possess any valid identity document, to prosecution if they cannot produce it when requested by an authorised officer. In this regard, we argue that when this happens, the children must be dealt with through the Children's Court and/or under the Children's Act, and this is to ensure that children's interests are protected in such instances.

The challenges are exacerbated by Clause 16(2), which requires minors to be assisted by a parent, guardian, or "authorised person" for ID applications, yet fails to account for the

⁸ Lawyers for Human Rights and Centre for Child Law "RE: SUBMISSIONS THE NATIONAL IDENTIFICATION REGISTRATION BILL (2022)" submissions to the Department of Home Affairs, submitted on 30 June 2023.

approximately 5 million children (25% of the child population) in South Africa who do not live with a biological parent(s) or legal guardian. This provision disproportionately affects vulnerable children, such as those with imprisoned parents, in child-headed households, or living with community members who are not formal guardians, leading to unfair discrimination and the unjust deprivation of IDs by the DHA. The CCL receives queries regarding children who have just turned 16 and are eligible to apply for IDs, but are being turned away by DHA because their biological parent(s) are not present. In most of these cases, these are orphaned and/or abandoned children. To address these issues, LHR and CCL recommended amending Clause 16(1) to increase the age requirement from 10 years to 16 years (which is the present age in which a child is eligible to apply for an ID) and adding a provision to Clause 16(2) to allow for an affidavit explaining the unavailability of a parent or guardian when a child is applying for an ID.

The Bill has not yet come into effect.

6 Opportunities and benefits

The CCL, while commending the DHA on its effort to improve the digitalisation of birth registration, we are of the view that there needs to be proper implementation of the plan. If properly implemented, this would ensure that there is prompt issuance of birth certificates. There will be improved accuracy in that digital forms would ideally reduce errors common in manual systems. Furthermore, a proper and stronger identity security in terms of a biometric system is needed to reduce fraud and misidentification risks. Lastly, there is a need for data integration where there is a clear coordination between DHA and the Department of Health.

It is also important to highlight that children in rural areas, informal settlements, migrant and refugee communities, and stateless families continue to face exclusion. Digital systems must be adapted to close this gap. This may be done by deploying mobile DHA teams with digital equipment to visit remote areas, informal settlements, and refugee shelters. These could be aligned with immunisation drives or social grant outreach programs. Introduce mobile pre-registration tools using USSD or SMS that enable parents to start the process remotely, schedule appointments, and receive reminders, even without internet access. Digital systems should be available not only in hospitals but also at clinics, community centres, ECD centres⁹, and municipal satellite offices. Allow for alternative forms of verification (e.g., affidavits,

⁹ Early Childhood Development Centres.

witness statements, or community attestations) when formal documentation is missing, and integrate these into digital platforms. We are of the view that not only in South Africa, but most African States should use this approach to tackle some of the birth registration challenges.

7 Challenges of Digital Birth Registration

The use of digital technologies is considered a potential solution to improve universal birth registration in South Africa. However, research and practical experience indicate that there is a significant gap in the implementation and interpretation of laws and regulations by officials at the DHA.¹⁰ Despite court orders, many officials are either unaware or unwilling to assist with registration without direct instructions from the Minister. Additionally, outdated computer software does not align with recent legal changes, complicating the registration process.

Digital technology has the capacity to ensure that information and data regarding birth registrations are accurately captured and stored. However, there are IDs of parents that have been blocked by DHA, which in turn prevents many children from being registered. This issue is highlighted in the case of *P.P.M and Others v. Minister of Home Affairs and Others* (14238/21) [2024] ZAGPPHC. Children born to migrants who are not permanent residents face additional challenges because their births are not recorded in the population registry or the DHA system. These children often receive handwritten birth certificates, and if these documents are lost, their parents must begin the registration process again from scratch since they are not listed in the registry. This situation clearly demonstrates how digital technology can lead to exclusion.

8 Recommendations

To enhance digital birth registration and promote equity, particularly where children are concerned, the CCL recommends the following, including the role that the ACERWC can play:

- Operationalise and maintain all hospital-based registration units.
- Expand digital access to underserved areas via mobile units and community partnerships.

¹⁰ See Proudlock P, Nyathi M, Lake L, Harding M & Hansungule-Nefale Z (2022) Legislative and policy developments affecting children. In: Tomlinson M, Kleintjes S & Lake L (eds) South African Child Gauge 2021/2022. Cape Town: Children's Institute, University of Cape Town; See further Joint submissions to the United Nations Human Rights Office of the High Commissioner: Universal Birth Registration and the Use of Digital Technologies available at <https://drive.google.com/file/d/1D-pZs98lQfP1oA8cXwp5OxA3Q2yZaYYJ/view>.

- Implement biometric identity systems with full legal safeguards and a child rights-based framework.
- Develop and roll out mobile-accessible registration tools using SMS or USSD technology.
- Simplify legal requirements for vulnerable populations and undocumented children.
- Ensure platforms are designed for inclusivity, accessibility, and multilingual support.
- The ACERWC must encourage member states to properly implement General Comment No. 2 on Article 6 of the ACRWC within their domestic laws to ensure universal birth registration.

9 Conclusion

The digitalisation of birth registration in South Africa has shown an improvement. However, systemic and infrastructural barriers continue to exclude the most vulnerable children. With targeted reforms and investment in mobile and inclusive technologies, South Africa has the potential to close these gaps and realise every child's right to legal identity from birth. This not only applies to South Africa but other regional countries as well.