

TECHNICAL CONSULTATION OF GLOBAL PARTNERS FORUM ON CHILDREN AFFECTED BY HIV AND AIDS

Technical Paper on Birth Registration

Nicola Sharp, Advocacy and Policy Advisor, Plan

1. Introduction

The *Global Framework for the Protection, Care and Support of Orphans and Vulnerable Children living in a World with HIV and AIDS* identifies five key strategies to help governments and other stakeholders respond to the needs of affected children.¹ The third of these five strategies requires that access to essential services is ensured for orphans and vulnerable children, including education, health care and, the focus of this paper, birth registration.

Birth registration is crucial. The act of registration itself is instrumental in establishing the child's legal personality and thereby safeguarding access to social services including education and health care in those countries where legal proof of identity is required.² In addition, birth registration plays an important role in building a protective environment for children. This is because, in the absence of a functioning birth registration system, it is difficult to enforce age-specific legal frameworks in areas such as juvenile justice, child trafficking, child labour, child soldiers, early marriage and sexual exploitation.³ Furthermore, the absence of a birth registration system hinders efforts to reunite children who have been placed into institutional care or who have become separated from their families due to illness, conflict or natural disaster.

The importance of birth registration as the first legal recognition of the child is raised in the preamble of the Convention on the Rights of the Child which notes that the child "needs special safeguards and care, including appropriate legal protection". It is also raised specifically within article 7 of the Convention which states that, "the child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents".

Birth registration is re-affirmed as a strategy for child protection in other important international documents including: article 8(2) of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography; article 3(d) of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts; and article 44(1) of the United Nations' General Assembly Resolution, *A World Fit for Children*,

¹ United Nations (2004) *The Framework for the Protection, Care and Support of Orphans and Vulnerable Children Living in a World of HIV and AIDS*, July

² For example: Algeria, Argentina, Brazil, China, Colombia, Congo, Egypt, India, Indonesia, Iran, Iraq, Kenya, Mexico, Morocco, Nigeria, Pakistan, Peru, Philippines, Russia, South Africa, Sudan, Tanzania, Thailand, Turkey, Ukraine, Uzbekistan and Vietnam

³ Plan (2005a) 'Universal Birth Registration: A Universal Responsibility'

which commits to “develop systems to ensure the registration of every child at, or shortly after birth, and fulfil his or her right to a name and a nationality”.

Signatory governments to these documents are responsible for ensuring that systems are in place to register the births of all children. Yet despite this, the Committee on the Rights of the Child observes that provision for registration of all children at birth is still a ‘major challenge’ for many countries and regions.⁴ According to the latest United Nations’ (UN) estimate, around 48 million children annually are not registered at birth.⁵ The vast majority of these children live in developing countries and a significant number live in those countries most affected by AIDS.

The State of the World’s Children: Rates of Birth Registration

Less than 25% of children registered	Afghanistan, Bangladesh, Cambodia, East Timor, Ghana, Kazakhstan, Tanzania, Uganda, Zambia
Less than 50% of children registered	Angola, Chad, Democratic Republic of the Congo, Gambia, Guinea Bissau, Equatorial Guinea, India, Myanmar, Mali, Nepal, Niger, Sierra Leone, Zimbabwe
Less than 75% of children registered	Benin, Botswana, Central African Republic, Cote d’Ivoire, Guinea, Haiti, Indonesia, Kenya, Laos, Lesotho, Mauritania, Maldives, Namibia, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Sudan, Swaziland, Vietnam
75-100% of children registered	Albania, Azerbaijan, Bolivia, Bosnia & Herzegovina, Brazil, Burundi, Cameroon, Comoros, Colombia, Cuba, Dominican Republic, Gabon, Georgia, Guyana, Iraq, Jamaica, Occupied Palestinian Territory, Madagascar, Moldova, Mongolia, Philippines, South Korea, Suriname, Tajikistan, Trinidad and Tobago, Togo, Uzbekistan, Venezuela

Source: MICS and DHS data 1999-2004

1.1 Birth Registration and Children Affected by HIV and AIDS

Without registration at birth and the acknowledged legal protection of the state, the child is vulnerable. Indeed, statistical analysis of unregistered children demonstrates that they are the same children who are disadvantaged in terms of their socio-economic status, education, health care and protection.⁶ However, the situation of a child who is both without birth registration and the additional protection provided by the care of a parent is even more precarious.⁷

For example, in addition to the difficulties outlined above, the unregistered and orphaned child may also be denied the right to inherit parental property. This has certainly been the case in Uganda, where children orphaned by AIDS have been

⁴ United Nations (2005a) ‘General Comment No.7: Implementing Child Rights in Early Childhood’

⁵ United Nations (2005b) ‘The ‘Rights’ Start to Life’, April

⁶ UNICEF (2002) ‘Birth Registration: Right from the Start’, Innocenti, March

⁷ Plan (2005b) ‘Submission to Day of General Discussion: Children without Parental Care’

unable to legally prove their personal identity and family ties in a court of law.⁸ Furthermore, the compensatory mechanisms used for establishing the identity of an unregistered child (such as sworn affidavits) are more difficult to obtain when a child's relatives are deceased.

The particular complications faced by children affected by HIV and AIDS are noted by the United Nations' Committee on the Rights of the Child in its General Comment on HIV/AIDS and the Rights of the Child: "The Committee wishes to emphasise the critical implications of proof of identity for children affected by HIV/AIDS, as it relates to securing recognition as a person before the law... In this respect, birth registration is critical to ensuring the rights of the child and is also necessary to minimise the impact of HIV/AIDS on the lives of affected children."⁹

The Committee also recognises in its General Comment on Implementing Child Rights in Early Childhood¹⁰ that birth registration is an important factor in helping to develop a child's sense of personal identity - something of particular significance to children orphaned by AIDS who may go on to be adopted through formal or customary practices.

1.2 The Statistical Value of Birth Registration

As well as being a rights issue, birth registration serves a statistical purpose. The demographic data provided by civil registration allows a country to keep track of its own population statistics and, when disaggregated, provides useful information about the situation of children. The use of this data can lead to more accurate planning and implementation of development policies and programmes¹¹ including actions that would help effectively identify and plan service provision for orphans and vulnerable children (for example, the equitable distribution of antiretroviral drugs).

Vital statistics can also assist in monitoring progress towards international targets such as the Millennium Development Goals. In preparation for the global review of the Millennium Development Goals in September 2005, for instance, the task force on Child Health and Maternal Health argued that: "While modelling and population-based surveys can augment our understanding of general levels and trends, they are not a substitute for strong, country owned vital statistics and civil registration systems. Information is a theme echoed by other task forces of the Millennium Project. *The task force seconds the call for information, starting with a simple accounting of who is born and who dies, as a critical crosscutting investment necessary for reaching the Goals.*"¹²

Similarly, the primary recommendation of the Equity Working Group of the Health Metrics Network (HMN)¹³ is that health information systems should support the basic

⁸ Plan (2005a)

⁹ United Nations (2003) General Comment No.3: HIV/AIDS and the Rights of the Child, 17 March

¹⁰ United Nations (2005a)

¹¹ United Nations (2005b)

¹² United Nations Millennium Project (2005) 'Who's Got the Power? Transforming Health Systems to Improve the Lives of Women and Children', First Draft, January

¹³ A global collaboration focused on strengthening country health information systems to generate sound data for decision-making at country and global levels

acknowledgement of human rights – one’s existence – by counting births and deaths in every country through a vital registration system.¹⁴

2. Barriers to Scaling Up

A fully functioning birth registration system should be *universal* so that it extends legal protection to even the most marginalised child. This means that it should be *free* and *compulsory*. In order to be sustainable, a birth registration system should also be *permanent* and *continuous* to ensure registration without interruption.¹⁵ The major barriers that prevent the scaling up of effective programming on birth registration according to these principles are outlined below.¹⁶

2.1 Institutional Constraints

2.1.1 Lack of International Leadership

As the lead UN agency for civil registration, the Statistical Office of the United Nations’ Secretariat developed the International Programme for Accelerating the Improvement of Vital Statistics and Civil Registration Systems in collaboration with the World Health Organisation (WHO), the United Nations’ Population Fund (UNFPA) and the International Institute for Vital Registration and Statistics in 1991.

However, the number of UN agencies that are involved with civil registration efforts has since increased to include: the United Nations Children’s’ Fund (UNICEF); the United Nations Education, Scientific and Cultural Organisation (UNESCO); the United Nations Development Programme (UNDP); the United Nations Refugee Agency (UNHCR); and the International Labour Organization (ILO) as well as a number of international organisations such as: Plan, Save the Children, World Vision, Oxfam and Human Rights Watch.

With different remits, these organisations employ a mixture of technical and rights-based perspectives to civil registration and, in the absence of clear leadership by the UN Statistical Office, do not always work together and with national governments in a coordinated manner.¹⁷

2.1.2 Political Barriers to Implementation

Despite the international obligation to register every child at birth, the main barrier to birth registration is limited understanding about the importance of birth registration as a child rights issue.¹⁸ This means that birth registration is often passively neglected for issues that are more immediate and tangible. The end result is a lack of support for birth registration from national governments and local authorities. Lack of political will for birth registration also translates into weak implementation and enforcement.

¹⁴ Based on: Sharp (2005) ‘Universal Birth Registration and Health Programming’, presented at the International Congress of Nurses Quadrennial Conference, Taiwan, May

¹⁵ www.unstats.un.org/unsd/demographic/sources/civilreg (accessed 26 January 2006)

¹⁶ Based on: UNICEF (2002) and Plan (2005a)

¹⁷ Plan (forthcoming) ‘Global Guidelines and Strategies for Universal Birth Registration: An Analysis of the Concluding Observations of the UN Committee on the Rights of the Child’

¹⁸ UNICEF (2002)

On the other hand, some governments understand only too well the significance of birth registration as it relates to the rights of the child and, as a result, deliberately downplay the importance of birth registration in order to minimise the official representation of particular groups within the population. The Committee on the Rights of the Child has noted a number of such cases including: refusal by the authorities in Bosnia and Herzegovina to register Roma children and the denial of birth registration to children of Haitian origin in the Dominican Republic.

2.13 Absence of Strong and Competent Institutions

In some countries there is no single national institution to oversee birth registration and provide strong and competent leadership. This means there is often little coordination and integration between the different ministries that have a stake in the operation of an effective birth registration system.¹⁹

2.14 Ineffective Civil Registration Systems

Where the civil registration system is highly centralised, accessibility to birth registration services is limited, especially for those living in rural and difficult-to-reach areas.²⁰ Centralisation also limits community involvement in the birth registration process which means that many systems of birth registration may cease to operate in times of disaster or conflict when the ability of authorities to carry out state administration services is diminished.²¹

2.15 Lack of Demand

Achieving universal levels of birth registration not only depends on the commitment of the government but also the commitment of parents. The decision to register a child depends on: awareness of the process and its importance; ability to access civil registrar services; cost of registration; and willingness to interface with state authorities.²² In addition, a parent may choose not to register a child born out of wedlock due to social embarrassment for example, or may not register the birth of a girl child who, it is envisaged, will not need a birth certificate for education or other purposes. Any one of these factors may have a negative impact on the demand for registration as this section of the paper demonstrates.

2.2 Policy Constraints

2.21 Inadequate Legislative Framework

Some countries have yet to enact legislation requiring birth registration.²³ Others only have general laws for civil registration which offer insufficient guidance for civil registrars and do not address the technical aspects of birth registration.²⁴ In countries where specific legislation for birth registration does exist, it may be inconsistent with the socio-cultural context (for instance, due to the legacy of colonialism). In other

¹⁹ For example: Panama

²⁰ For example: Zambia, Haiti and Greece

²¹ For example: Nepal

²² United Nations (2005b)

²³ For example: Ethiopia, Eritrea, Sudan and Namibia

²⁴ For example: Bangladesh

countries, legislation for civil registration may be further complicated by, inconsistent with, or undermined by, other legislation.²⁵

2.22 Discriminatory Policies

Birth registration laws may be discriminatory in that they do not provide sufficient mechanisms to accommodate registration for all groups of children. In Malawi, for example, domestic legislation does not provide for compulsory registration of all births but only for children whose parents are of non-African origin.

In addition, birth registration laws may be inflexible so as not to accommodate retrospective registration or the registration of children in difficult circumstances or from marginalised groups. As well as children orphaned by AIDS, these include abandoned children, children born out of wedlock, refugee children, street children, disabled children and children from nomadic and indigenous communities.

Difficulties usually occur due to the absence of adequate proof of identity of the child's parents, the child's date of birth and the child's place of birth. Where alternative methods of establishing these facts exist, they are usually unnecessarily complex and costly.

2.3 Financial Barriers

2.31 Resource Constraints

Low priority for birth registration leads to low status for registration authorities and inadequate resources, especially when governments are faced with competing demands for limited funds. As a consequence, responsible authorities can not always ensure the appropriate numbers of birth registration facilities are available. Nor are they always able to support the birth registration process by providing information about its importance and conducting awareness-raising campaigns to stimulate public demand for the service.

Resource constraints also hinder the functioning of civil registration systems, limiting opportunities for proper training and ongoing guidance to registrars on birth registration laws, procedures and technicalities. Furthermore, a lack of resources for birth registration means offices are often poorly equipped with shortages of basic materials for registration including pens, application forms and even the certificates themselves.

2.32 Absence of Appropriate Technology

In the absence of computerised systems, the safe and secure storage of registration documents is extremely difficult. This has serious implications in times of disaster or conflict when records could be easily destroyed. The absence of computerisation can also limit the potential of data management and analysis.

2.33 Cost to the Individual

²⁵ For example: China's family planning policy is an impediment to birth registration

Another manifestation of the absence of adequate funding is that birth registration is treated as a source of income, with a fee imposed on the individual coming to register. Costs to the individual not only include direct costs (for example, of the birth certificate) but opportunity costs including travel and absence from work. Indeed, birth registration is highest among the richest 20 per cent of a country's population, confirming that poverty is associated with low levels of birth registration.²⁶

3. Actions Required

In order to address the barriers outlined above, this section puts forward a number of recommended actions.²⁷ Of course, the mix of actions required will vary from country to country according to identified needs, capacities and priorities. It is important to note, however, that whilst a variety of different actions can provide valuable support to birth registration efforts, national-level actions should be led by countries themselves. Furthermore, whilst children wait to be properly registered, they should always be granted equal access to basic social services.

Responsible Body	Action Required
UN Agencies	<p>Demonstrate Clear International Leadership for Birth Registration Establish a global framework to co-ordinate collective civil registration efforts, with particular focus on achieving UBR as the foundation on any civil registration system. This framework can build on the 1991 International Programme for Accelerating the Improvement of Vital Statistics and Civil Registration Systems but should also introduce a rights-based perspective, ensuring the framework allows the voices of those most affected by the absence of a legal identity to be heard.²⁸</p>
Regional Organisations	<p>Establish Regional Leadership for Birth Registration Play an active co-ordinating role in birth registration based on an understanding of the regional situation. This includes mobilising political will for birth registration, encouraging interaction between countries for learning and harmonising civil registration systems.²⁹</p>
Donors	<p>Support Capacity Building for Birth Registration Provide financial support for the development of sustainable birth registration systems and ask countries with low levels of birth registration who are seeking donor funding to report on their civil registration efforts.³⁰</p>
National Governments	<p>Undertake and Enforce National Legislative Measures Design, implement and enforce appropriate legislative measures for birth registration as the foundation of the wider civil registration system and, where appropriate legislation for birth registration already exists, review and amend all national and local laws in line with the principles and provisions of the Convention on the Rights of the Child.</p>

²⁶ United Nations (2005b)

²⁷ Based on: Plan (forthcoming)

²⁸ Plan (forthcoming)

²⁹ In 2003, for example, the African Union made birth registration the theme of the Day of the African Child.

³⁰ In Cambodia, the Asian Development Bank and Plan Cambodia are supporting the Ministry of Interior in undertaking a mobile registration campaign

Review the National System for Birth Registration

Assess existing procedures for registering, organising and keeping civil registry records to ensure the effective operation and maintenance of the system. This may require providing the necessary infrastructure and technologies to facilitate birth registration in rural and difficult-to-reach areas, for instance, through mobile registration.

Focus Birth Registration Efforts on the Most Marginalised Children

Pay particular attention to ensuring the registration of marginalised children, including those children affected by HIV and AIDS,³¹ for example, through National Action Plans on Children Orphaned and made Vulnerable by AIDS.³²

Ensure the Co-ordination of Birth Registration Strategies

Integrate strategies to ensure the birth registration of marginalised groups of children³³ into the wider framework for birth registration to ensure that the issue is approached in a harmonised manner.³⁴

Integrate Birth Registration with other Social Services

Link birth registration activities to the delivery of social services to build efficient, comprehensive and cost-effective coverage.³⁵ Specific points of intervention include school enrolment, food distribution and immunisation campaigns.³⁶

Raise Awareness and Knowledge of Birth Registration

Establish national and local level awareness-raising campaigns on birth registration to sensitise parents, families, institutions, birth attendants and traditional and religious leaders on the importance of birth registration, especially for children in difficult circumstances. Also provide information to communities and children about the child's right to an identity at birth and on birth registration procedures in local languages.³⁷

³¹ In this respect, special measures for facilitating birth registration may need to be introduced such as: assisting families to acquire the necessary documentation for registration; organising an amnesty for undocumented individuals to register themselves retrospectively and without fines; facilitating 'special judgements' for children in difficult circumstances; and organising collective judgements whereby a judge can visit a community and speak to witnesses able to verify the details given about a child.

³² In Zimbabwe, for instance, Plan and UNICEF are working with the Registrar General and national and local NGOs on birth registration efforts through their National Plan of Action on Children Orphaned and made Vulnerable by AIDS

³³ National governments can work through existing frameworks and mechanisms such as the World Fit for Children National Action Plan or the Programme of Action adopted by a number of governments following the International Conference on Population and Development in 1994. Another approach is to design and implement a National Action Plan specifically for birth registration

³⁴ This can be achieved through the establishment of a steering committee made up of all relevant stakeholders and the identification of a central co-ordinating authority

³⁵ UNICEF (2004) 'Birth Registration and Armed Conflict', 19 October

³⁶ By linking birth registration to a polio campaign in Afghanistan, for instance, UNICEF was able to reach almost every household in the country

³⁷ In Cambodia over one million plastic envelopes were distributed to households in order to protect birth certificates and raise awareness of the right to be registered and other child rights issues

³⁸ One suggestion that is repeatedly raised at national and regional levels on birth registration is linking birth registration to some form of payment

	<p>Increase Demand for Birth Registration</p> <p>As well as informing the population of the importance of birth registration, increase demand for birth registration by making civil registries accessible, removing costs to the individual and providing incentives for birth registration.³⁸</p>
Civil Society	<p>Support Birth Registration Efforts</p> <ul style="list-style-type: none"> ▪ Represent civil society in national and local level steering groups on birth and civil registration ▪ Lobby for legislative and policy change on birth registration ▪ Support awareness-raising activities and help create demand for birth registration ▪ Link birth registration to traditional naming ceremonies and baptism ▪ Support local level systems for birth registration³⁹ and facilitate community and child participation in the birth registration system.⁴⁰
Media	<p>Raise Awareness and Knowledge of Birth Registration</p> <p>Support national governments in raising awareness of birth registration as a child rights issue and providing information on birth and civil registration systems.⁴¹</p>

³⁹ This will ensure that birth registration continues should the official system be inaccessible or cease to function during conflict and in times of disaster; it also builds the capacity of communities to account for children in these situations

⁴⁰ Local communities can play an important monitoring role in the identification of orphans and other groups of vulnerable children in need of birth registration. Where appropriate, children themselves should be involved in campaigning for birth registration since they are powerful agents of change and, most importantly, future parents

⁴¹ For instance, at the First West Africa Birth Registration Conference organised by Plan, the UNFPA and UNICEF in 2004, media from across the region came together to discuss their role in registration efforts. One recommendation was that community radio stations be created and disseminate information on birth registration