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Birth Registration in Iran

An analysis of the state of relevant laws in Iran



For every child
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Definition:

'Birth Registration' is the official recording of the birth of a child by an administrative process of the state and is coordinated by a particular branch of government. It is a permanent and official record of a child's existence.

INTRODUCTION

Why birth registration?

Birth registration is a fundamental human right and an essential means of protecting a child's right to an identity.

In 2000, an estimated 50 million babies around the world—more than two-fifths of those born—were unregistered. In Iran, the 1997 Multiple Indicator Cluster Survey (MICS, MOH-UNICEF) showed that 13% of births in Iran were not registered.

Apart from being the first legal acknowledgement of a child's existence, the registration of births is fundamental to the realization of a number of rights and practical needs. These include:

- ensuring access to health care;
- ensuring access to immunization;
- ensuring that children enroll in school at the right age;
- enforcing laws relating to minimum age for employment, handicapping efforts to prevent child labor;
- effectively countering the problem of girls forced into marriage before they are legally eligible, without proof of age;
- ensuring that children in conflict with the law are given special protection, and not treated (legally and practically) as adults;
- protecting young people from under-age military service or conscription;
- securing the child's right to a nationality, at the time of birth or at a later stage;
- protecting children who are trafficked, and who are eventually repatriated and reunited with family members;
- getting a passport, opening a bank account, obtaining credit, voting or finding employment.

While birth registration does not *guarantee* education, health, protection or participation, its absence can put these fundamental rights beyond the reach of those already on the margins of society.

In addition to issues relating to protection, a functioning system of birth and civil registration ensures that the country has an up-to-date and reliable database for

planning. This is as useful for national level planning as it is for local government bodies responsible for maintaining education, health and other social services for the community.

Iran adopted a Birth Registration law in 1918. The law stipulates that all births must be registered within 15 days. The Ministries of Interior, Justice and Foreign Affairs all have responsibilities for the implementation of the law.

The absolute number of births registered in 2003 is reflected in the table below.

Table 1: Number of birth registered in 2003

Urban	Rural	Total
768,845	402,728	1,171,573

Although MICS data showed the rate of birth registration to be 87%, the 2003 United Nations Common Country Assessment recognized that wide disparities persist between regions. Birth registration systems, notably in remote rural areas, still face many problems. The challenges facing unregistered children by far exceed the capacity of any single organization. In remote areas in particular, parents often do not see the benefits of their own citizenship, let alone the benefits that birth registration would confer on their children. However, a two-month mobile campaign in 2004 in five districts of Sistan and Baluchistan increased birth registration three-fold compared with the same period in 2003.

Table 2: Birth Registration in 5 districts in Sistan & Baluchistan

	Name of district	Number of births registered during the two-month period in 2003	Number of births registered by the Mobile Campaign during the same two months in 2004
1	Saravan	1,040	2,024
2	Chahbahar	1,270	4,979
3	Iranshahr	1,355	2,917
4	Nikshahr	1,109	1,908
5	Sarbaz	840	3,611
	Total	5,614	15,455

Failure to register births was also found to be associated with failure to register marriages (particularly among nomadic tribes), and with a lack of access to birth registration offices in distant and inaccessible rural areas. For example, in Sistan and Baluchistan province there are 36 districts, of which 16 lack birth registration facilities. Legal obstacles for children with non-Iranian fathers, birth registration fees and cultural restrictions with early child naming are some of the other obstacles. The mobile campaign succeeded by decentralizing and making registration facilities accessible to remote rural areas.

History of Convention on the Rights of the Child in Iran

Article 7 of the Convention on the Rights of the Child states:

1. 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.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

The Convention on the Rights of the Child (CRC) was signed by the representative of the Government of the Islamic Republic of Iran on 5 September 1991 and was ratified in March 1994 by the Islamic Consultative Assembly, with general reservations. Iran has reserved the right not to apply any provisions or articles of the Convention that may be in contravention with domestic laws and Islamic standards. On 15 June 1994, the Islamic Republic of Iran acceded to the CRC and the Convention became binding from 12 August 1994.

The broad generality of the reservation implies that, in principle, Iran could comply with the CRC without modifying or strengthening existing national laws and policies that affect children. But true to its commitment to the survival, development, protection and participation of children in Iran, the Government has already decided to review and re-examine this reservation to amend it accordingly.

The state of Iranian Birth Registration Laws

In order to adhere to the spirit of the Convention, the following pages describe the position of Iran on birth registration. They also highlight compatibility or non-compatibility with the substantive provisions of the Convention.

Laws making Universal Birth Registration compulsory:

In light of Article 7 of the Convention, the Human Rights Committee General Comment recommends that State Parties ensure universal and compulsory Birth Registration.

Iran adopted a Birth Registration Law in 1918, making Birth Registration compulsory. Article 12 of the Registry Act stipulates that the birth of every child born in Iran, regardless of the nationality of his/her parents shall be reported (within 15 days) to the official representative or agent of the Birth Registration Organization and the birth of the children of Iranian nationals residing outside Iran shall be reported to the local Consulate of the Islamic Republic of Iran and in the event that there is no local Iranian consulate, it shall be reported to the nearest Iranian consulate or the Birth Registration Organization of Iran.

Article 993 of the Civil Code stipulates that the birth of each child and the abortion of a fetus six months after conception shall be reported to the Birth Registration Organization within the time and manner prescribed by laws or special procedures.

The legal grace period for the announcement of the birth of a child is 15 days from the date of birth. After the expiration of the prescribed period, if the fact of birth is not recorded, those who are legally bound are considered violators of the law and will be prosecuted, pursuant to Article 3 of the Law on Contravention, Crimes and Punishments concerning Registration of Personal Status enacted by the Council of Expediency (August 1991). In case of conviction, the violator shall be liable not only for registration of the birth but also for payment of a fine. However, these laws are often not comprehensive enough, are not enforced or do not function.

When should a birth be registered?

According to the CRC, the child should be registered "immediately after birth," which implies a defined period of days rather than months. Most countries have a legal provision for registering births of children within a prescribed period.

The Iranian Registry Act stipulates registration within 15 days of birth. The day of birth and holidays right after the deadline are not counted. If the birth takes place during traveling, the date the parents reach their destination will be accountable. For non-registration or late registration, sanctions have been imposed by law but they are not enforced.

What details are recorded?

Although the Convention does not specify what must be registered, other rights (to name and nationality, to know parentage, family and identity) imply that registration ought, as a minimum, to include:

- The child's name at birth
- The child's sex
- The child's date of birth
- Where the child was born
- The parents' names and addresses
- The parents' nationality status

According to Article 13 of the Registry Act, the birth of a child in Iran shall be recorded by the official representative of the Birth Registration Organization of Iran and outside of Iran shall be recorded by the official representative of the consulate of the Islamic Republic of Iran in the Book for Registry of All Events.

This book contains the following information:

- The hour, day, month, year and place of birth
- The full name and gender of the owner of the document
- The full name and number of the birth certificate of the mother and father
- The full name and signature of the representative or agent of the Birth Registration Organization of Iran
- The specific place for registration and numbering of the serial code of the fingerprints of the owner of the document

The right to Iranian nationality

Article 976 of the Civil Code provides that the following persons are regarded as Iranian nationals:

1. All residents of Iran except those whose foreign nationality is proven; the foreign nationality of those whose documents of nationality are not objected by the Government of the Islamic Republic of Iran is indisputable;
2. A person whose father is an Iranian national regardless of his/her place of birth;
3. A person born in Iran and whose parents are not known;
4. A person born in Iran whose parents are not Iranian nationals but one of whom was born in Iran;
5. A person born in Iran whose father is a non-Iranian national but who has resided in Iran for at least one year before reaching the age of 18;
6. Any non-Iranian woman who marries an Iranian national;
7. Any previously non-Iranian national who has legally adopted Iranian nationality.

Note: Children whose parents are diplomats and consular agents are not subject to paragraphs 4 & 5 of this article.

Article 977 of the Civil Law states:

Whenever the persons specified in Paragraph 4 of Article 976 reach 18 years of age and desire to adopt their father's nationality, they must forward their written request and enclose to it the approval of the government of the country their father is a national of, stating that they shall recognize their status of nationality, to the Ministry of Foreign Affairs within one year.

If the persons specified in Paragraph 5 of Article 976 reach 18 years of age and desire to preserve the nationality of their father, they must forward their written request and enclose to it the approval of the government of the country their father is a national of, stating that they shall recognize their status of nationality, to the Ministry of Foreign Affairs.

Granting nationality:

The Manual on Human Rights Reporting, 1997, notes: "Birth registration should be ensured by State Parties to every child under their jurisdiction, including to non-nationals, asylum seekers, refugee and stateless children."

By Iranian legislations, non-nationals can register their children's births but cannot get birth certificates easily because having a birth certificate means proof of Iranian nationality. This question of nationality is one of the most sensitive and complex aspects associated with Birth Registration and can compromise the registration of a child.

Most states confer nationality according to the principle of *jus soli* (which translates literally as 'law of the soil') or *jus sanguinis* ('law of blood') or a combination of the two. By civil law, Iranian nationality is conferred mostly by *jus sanguinis* on the paternal side; children cannot acquire the nationality of their mothers.

Iran has not ratified the 1961 Convention on the Reduction of Statelessness, which provides that children should acquire the nationality of the State in which they were born if they are not granted nationality by any other State, or if such children fail to make the proper applications to obtain this right, then they should be entitled to the nationality of one of their parents. So far, no measures have been adopted by Iranian Registry Law to ensure the child's right to acquire a nationality, in particular where the child would otherwise be stateless. Those born of Iranian mothers married to foreign men who have abandoned them are often left without a nationality or a birth certificate because of prevailing laws.

According to Article 1060 of Civil Law, the marriage of an Iranian woman to a foreign national—provided there is no legal prohibition—is allowed only if the Government issues special permission.

As entry to the State for most asylum-seekers, especially Afghans, is not legally registered, marriages cannot be registered with the result that their children cannot get birth certificates.

Who can apply for a birth certificate?

According to Article 16 of the Registry Act, announcing and signing the records of the Book for the Registry of All Events shall be done by the following persons:

- Father, or father's father, or the latter person's father;
- Mother, in case the father is absent, at the earliest time she is able to perform the duty;
- Trustworthy guardian or executor appointed by the testator in his/her will;
- The person who is legally responsible to look after the child;
- The representative or agent of the institution that has custody of the child;
- The actual person being registered, when they are above 18 years of age.

Status of registration of children born out of wedlock by Iranian Law

If the marriage of a baby's parents has not been registered, declaration of the fact of birth and signing the records of the Book for the Registry of All Events are the joint responsibility of the mother and the father. If it is not possible to attain agreement of the father and the mother regarding declaration of the birth of the child (if, for example, one of them is not available or one of them disagrees with regard to the blood relationship of the child) the birth certificate will be issued upon the application of one of them, specifying only the first name of the absent party.

If a child is born in Iran of an Iranian mother outside marriage, s/he will be regarded as an Iranian citizen if his or her father is an Iranian citizen. However, the child's birth certificate will contain his or her mother's family details. In cases where the child's father is not an Iranian citizen, the Iranian authorities will regard the child as having the same nationality as his father.

Article 17 of the Registry Act states that whenever the parents of a child are not known, the document shall be issued with free and imaginary names in an imaginary place (mostly the place the child has been found) and the arbitrary nature of the name of the father and mother shall not be reflected in the birth certificate of the child.

It is understood that if a birth certificate is issued with an arbitrary name, and thereupon the real parents of the child are found, the Department of Personal Status Registration is required to correct the birth certificate according to the verdict of the court or the document of the probate, or the affidavit drawn up in conformity with Article 1273 of the Civil Code and the surname of the bearer of the document shall be corrected according to the regulations of surnames.

In accordance with Article 18 of the Personal Status Registration Act, the representative or official of the Department of Personal Status Registration who records the birth of the parentless child is required to report the circumstances to the Public Prosecutor's Office of the court. According to these articles, children who have been abandoned or who are illegitimate should also have birth certificates. These kinds of arrangements are intended to secure the child's right to privacy and confidentiality of any potentially stigmatizing information on the birth certificate.

By Islamic law, adultery is proven in the court of a Muslim Judge by the said person's own acceptance (confession) or by four witnesses. In this situation, "*hadd*" or punishment would be applied on the said person (i.e. the punishment of 100 lashes for adultery before marriage or stoning to death for adultery after marriage).

Being pregnant and not married makes the mother suspected of adultery ("*zina*") simply by virtue of her pregnancy. This means that, according to Islamic Penal Code, an Iranian woman who gives birth to a child out of wedlock in Iran may be held legally responsible for such an act. The relationship in question may be regarded as constituting infidelity, and is thus liable to punishment. Such a woman if proved of adultery may be flogged 100 times for bearing a child out of wedlock.

However, the children born out of wedlock deserve all the care they need as children; thus the father is held responsible to provide them with requirements such as a birth certificate. According to Article 1 of the Iranian Registry Act, Birth Registration and issuance of a birth certificate is the responsibility of the Birth Registration Organization and also, by Article 16, the father, or father's father, or the latter person's father shall apply for registering the child, whether the person in question was born in or out of wedlock.

Article 1167 of the Civil Law stipulates that the child born out of wedlock can not be attributed to the adulterer. This means that such a child can not inherit from the father. By Civil Law, children born out of wedlock have no rights to inherit property from their mother or father except by specific designation (e.g. in a will) but generally the father is responsible for obtaining a birth certificate and for the child's expenses.

Right to a Name

According to Article 7 of the CRC, the child's right to a name should be "from birth". Article 20 of the Iranian Registry Act notes that, "the selection of name is by the announcer. A conventional name, simple or compound, shall be chosen."

Selecting names which would insult the sacred elements of Islam and which contain profanities or do not fit the gender of the child is prohibited. The recognizing of prohibited names is done by the Supreme Council of Registry,

which selects the possible names and announces them to the Birth Registration Organization of Iran. Selecting names in the case of recognized religious minorities is done on the basis of their language and religious culture. In the birth certificates of persons of religious minorities, their religion is specified.

Further, Article 997 of the Civil Code provides that every person must have a surname. The Personal Status Registration Act of 1976 stipulates that every child must have a given name and a surname. Selections of titles or ranks, as well as designations that are lewd or inappropriate for the gender of the child, are forbidden. The surname of a child, pursuant to the note to Article 41 of the Personal Status Registration Act, is the family name of the father.

The provisions of Article 12 of CRC (respect for the child's opinion) should also be considered in relation to naming. The right to a name from birth is unavoidably a matter for adult caregivers or the State; babies can play no part in choosing their names. However, some provisions have been made so that children can apply to the appropriate authorities to change their name at a later date. According to Article 41 of the Registry Act, children who have reached the age of maturity can apply to choose another surname.

The child's right to know his/her parents:

Article 7 of the CRC emphasizes the child's right to know and be cared for by his or her parents as far as possible. It may not always be possible to identify parents, and even when they are known, it may not be in the child's best interests to be cared for by them.

A few decades ago, the definition of "parent" was fairly straightforward. There were "biological" parents, also known as "natural" or "birth" parents, and there might also be "psychological" or "caring" parents, such as adoptive or foster parents. These days, the term "biological parent" has a more complex meaning. For example, in the case of egg donation, the "biological parent" could either be the genetic parent (the donor of the egg) or the birth mother.

Islamic religious leaders had opinions that *in-vitro* fertilization with the use of a donated sperm might be a form of "*zina*" (or adultery) and had concerns about the potential for incest, since the gene pool was unknown. However, in 1999, the Supreme religious leader of Iran, Ayatollah Seyed Ali Khamenei, issued a Fatwa effectively permitting donor technologies to be used. With regard to both egg and sperm donation, Ayatollah Khamenei stated that both the donor and the infertile parents must abide by the religious codes regarding parenting. However, the donor child can only inherit from the sperm or egg donor, as the infertile parents are considered to be like "adoptive" parents.

However, the situation for Shi'ite Muslims is actually much more complicated than this. Because Shi'ites practice a form of individual religious reasoning known as

Ijtihad, various Shi'ite Ayatollahs have come to their own conclusions about sperm and egg donation. There are major disagreements about:

- (1) Whether the child should follow the name of the infertile father or the sperm donor;
- (2) Whether donation is permissible at all if the donors are anonymous;
- (3) Whether the husband of an infertile woman needs to do a temporary marriage with the egg donor, then divorce her after the embryo transfer, in order to avoid *zina*, or adultery;
- (4) Whether a married Shi'ite Muslim woman can do a temporary marriage with a sperm donor, which would constitute an illegal state of polyandry. In theory, only widowed or otherwise single women should be able to accept donor sperm, in order to avoid the implications of *zina*. However, in Iran like many Muslim countries, single motherhood of a donor child is unlikely to be socially acceptable.

Iranian authorities are still drafting regulations on these emerging issues which have not yet been dealt with.

The question of lineage

It is presumed that any child born to a married woman, or within competent time after termination of the marriage, is the child of her husband. If, however, it can be proved that it was physically impossible for the husband to have been the father (e.g. because of non-access to the wife), he may bring action to establish the illegitimacy of the child.

Articles 1158 and 1159 note that children born during the marriage are attributed and named after the husband unless the child is born prior to six months before the start of marital relationship or more than ten months after the divorce.

Generally the genetic father is responsible for obtaining a birth certificate for the child. If, for some reason, he does not do so a child could obtain the card and other documents upon reaching maturity; a mother, if necessary, could go to an office of birth registry and obtain a birth certificate for a child. In that case the child would have the mother's name rather than the father's name.

The cost of Birth Registration

Birth registration in Iran is not free of charge. The charge for providing the first copy of a birth certificate is 20,000 Iranian Rials. To encourage people to take care of their document, there is a 50,000 Rial fee for the first time a birth certificate is lost, and 10,000 for any subsequent losses.

SUMMARY OF INCOMPATIBILITIES WITH ARTICLE 7 OF CRC:

1. If parents fail to register children, there is no duty on the State to secure registration.
2. Birth registration is not free of charge.
3. Children born of non-citizens can not obtain birth certificates.
4. The State has not ratified The Convention on Reduction of Statelessness 1961.
5. Children cannot apply to change their nationality.
6. Registration is not easily accessible in disparity provinces.
7. Children cannot acquire the nationality of their mothers.

PLANNED ACTIVITIES BY UNICEF

UNICEF sees birth registration as a priority in the package of services provided for children at birth. UNICEF seeks free birth certificates for every child in every country. It calls for effective registration systems that are compulsory, universal, permanent and continuous, and that guarantee the confidentiality of personal data.

UNICEF's approach to improving levels of birth registration focuses on:

- **Advocacy:** UNICEF supports campaigns to encourage parents to register their children. UNICEF also works closely with governments to encourage greater attention to, and resources for, birth registration;
- **Situation analysis:** UNICEF seeks to develop a clear picture of which children are not registered, where they are and why they are not registered;
- **Capacity-building:** UNICEF provides support to systems for birth registration. This ranges from training and provision of essential materials to developing models for community involvement;
- **Working with partners:** UNICEF works with a range of partners, particularly the Birth Registration Organization, in the promotion of birth registration.

The UNICEF Country Programme for the period 2005-2009 has as its overall goal to protect and realise the rights of the most vulnerable, marginalized and at-risk girls, boys and women in 12 selected districts of three disparity provinces (Hormozgan, Sistan and Baluchistan and West Azarbaijan) as well as the district of Bam.

On Birth Registration, the Government of the Islamic Republic of Iran and UNICEF have jointly agreed to the following key result:

By the end of 2009, registration of births in the first three months of life, and issuance of birth certificates to families, covers 90% of children in 13 priority districts.

In order to achieve this goal, specific outputs have been established, as follows:

- Appropriate system for birth registration, especially in low coverage areas, is developed and agreed upon;
- Birth and child registration system available at selected villages for community-level planning;
- Community members and service providers have increased awareness on the importance of birth registration.

CONCLUSIONS AND RECOMMENDATIONS

Improving registration coverage depends on a country's political will to implement change in the interest of its children. Measures introduced to increase demand for registration from the population must be matched by efforts to ensure supply by the administration. Demand can be stimulated by raising awareness of the benefits of registration and a birth certificate, by simplifying procedures and by ensuring that women, whether married or single, are entitled to register the birth of their child.

It is vital that registration and the all important birth certificate are both free of charge. Demand can be met by improving administrative coordination, promoting top-down, bottom-up approaches that involve actors from all levels—particularly grassroots actors at community level—introducing or modifying legislation, building capacity and, in countries where they are very active, training traditional birth attendants to promote registration.

In addition, resources can be maximized by integrating Birth Registration with other services, such as education or immunization. The establishment of an operational civil register and the issuing of a birth certificate to every child are measures within the reach of all national governments.

Politics and economics must not stand in the way of the systematic provision of one of the most important pieces of paper a person will ever own. Important because the registration of every birth within a national boundary marks a step towards the development of a fully-fledged national administration and helps consolidate the foundations of civil society. But important, above all, because it is the only way to ensure that each and every child enjoys their full right to an identity and citizenship, and all that this implies.