



Parliamentary workshop on the right to identity: Promoting universal birth registration in Latin America and the Caribbean

Regional meeting hosted by the Parliament of the Republic of Peru
and co-organized by the Inter-Parliamentary Union and the United Nations Children's Fund (UNICEF)

LIMA, PERU, 7-8 JUNE 2013

We, legislators of seventeen countries in Latin American and the Caribbean, gathered at the present Regional Workshop in the city of Lima, Peru, on 7 and 8 June 2013, to discuss how parliamentarians can ensure children's right to an identity;

Reaffirming the obligations set forth in the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, the American Convention on Human Rights, as well as the conclusions and recommendations of the First and Second Regional Conferences on the Right to Identity and Birth Registration, held in 2007 in Paraguay and in 2011 in Panama, respectively;

Expressing concern for unregistered persons who have no access to services and cannot enjoy all their rights, especially children;

Acknowledging the progress made in the region over the past years in terms of increasing the rate of birth registration;

In accordance with the purposes and objectives of the present Workshop, this meeting has discussed the following topics: *An overview of birth registration in the region; The equity angle; Barriers to birth registration; Parliament's role in advancing birth registration; and Promoting birth registration as part of a comprehensive child protection and development agenda*, based on which the following conclusions and recommendations have been drawn up:

Conclusions

1. Registration in State civil registries guarantees the right to an identity, recognition and enjoyment of the human rights and benefits to which all persons are entitled.
2. A historical situation of discrimination exists against certain vulnerable groups, including stateless persons, indigenous peoples, persons of African descent, persons with disabilities, migrants and the children of persons deprived of their liberty.
3. There are 200 million under-five-year-olds who have no identity. In the Americas, 1.3 million births go unregistered each year and 6.5 million children do not have a birth certificate.
4. The level of under-registration among children between 1 and 5 years of age fell from 18 per cent to 7 per cent, due mainly to the notable effort of States.
5. These figures should gradually improve, especially since 11 per cent of under-five-year-olds in rural areas are still not registered.
6. Under-registration is most prevalent in areas where births do not take place in hospitals.
7. In cases involving children, non-registration implies being exposed to child labour, being arrested or subjected to human trafficking, among other human rights violations.
8. There is a problem of inflexible public registration policies, which exclude diversity.
9. Registration systems are often defective owing to a lack of national policies with appropriate legal and information frameworks, institutional flaws and budget constraints.

10. Civil identification registries are good indicators for gauging the efficiency of the State in general and of the relevant authorities in particular.
11. The challenge for the legislative branch is to devise new mechanisms and through inter-parliamentary cooperation find solutions to ensure that births are registered.

Recommendations

1. Guarantee as far as possible the right of all persons to have their birth duly registered in the State civil registries in accordance with the parameters established in the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights and the American Convention on Human Rights.
2. Take all the necessary measures to honour the commitment made at the Paraguay and Panama events, paying special attention to the most excluded and vulnerable persons in order to reverse a historical situation of inequality associated with birth registration.
3. Incorporate an equity angle in birth registration with an egalitarian focus. Special attention should be paid to indigenous peoples, persons of African descent, persons with disabilities, migrants and the children of persons deprived of their liberty.
4. Particular attention should be paid to the 11 per cent of under-five-year-olds in rural areas who are still unregistered.
5. Consider the possibility of ratifying or acceding, as the case may be, to the 1961 Convention on the Reduction of Statelessness and the 1954 Convention relating to the Status of Stateless Persons, and enact national legislation to establish statelessness determination procedures and ensure the protection of stateless persons
6. Study domestic laws on nationality with a view to preventing and reducing cases of statelessness and removing possible inconsistencies with the principles and criteria of international law.
7. Examine the situation of persons belonging to indigenous groups so as to ensure that registration data includes the fact that they belong to a specific ethnic group if they so desire.
8. Train and sensitize registration officials.
9. Formulate national policies with appropriate legal frameworks aimed at overcoming institutional failings and lack of funds.
10. Involve the education and health authorities and sectors in registration and promote joint initiatives with community leaders and midwives.
11. Overcome the legal barriers that prevent timely registration, such as deadlines, fines and parent requirements.
12. Direct legislative policy towards the establishment of new mechanisms and use inter-parliamentary cooperation to find ways of achieving birth registration and guaranteeing the right to an identity.
13. Involve UNICEF and the IPU in the implementation and follow-up of legislative policies.

Suggestion subject to approval by the plenary: Propose that 2013-2014 be declared the Year of Universal Registration to advance towards the goal by the target date of 2015.

ANNEX I

Report of the Parliamentary Workshop on the right to identity: Promoting universal birth registration in Latin America and the Caribbean

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1. An overview of birth registration in the region

The right of every person to have their birth duly registered in the State registry is the basis for the recognition of human rights. A number of international human rights treaties have recognized this right, with the corresponding international obligation that falls to States to safeguard it. Article 7 of the Convention on the Rights of the Child recognizes the right of the child to be registered immediately after birth. A similar obligation is set forth in the International Covenant on Civil and Political Rights. In the case of the Americas, this obligation derives from Article 3 of the American Convention on Human Rights, which recognizes the right of every person to juridical personality. Obviously, this international duty must take into consideration and recognize the various situations of vulnerability in order to reverse the historical situation of inequality since persons belonging to indigenous groups, child migrants and mothers continue to face difficulties in accessing State civil registries. It should not be forgotten that in the eyes of the State, an unregistered child does not exist in legal terms, which is why they are more prone to maltreatment, abuse and exploitation.

The scale of the problem is evidenced by the fact that currently in the world 200 million under-five-year-olds are unregistered. Similarly, one in four developing countries has under-registration rates of below 15 per cent, even with Africa and Asia accounting for the highest levels. In the Americas, currently 1.3 million births are unregistered and 6.5 million every year are without a birth certificate. These rates differ from country to country, for example, while under-registration in the USA, Canada, Chile and Uruguay stands at below 2 per cent, in some Central American countries it fluctuates between 8 and 12 per cent. At the other end of the scale, in countries such as Nicaragua and Haiti, the rate lies somewhere between 20 and 30 per cent.

Despite this bleak outlook, UNICEF has indicated that under-registration among children between 1 and five years of age fell from 18 per cent in 2000 to 7 per cent at present, due mainly to the notable efforts of States, e.g. through registration campaigns conducted in the most vulnerable places in the region. These figures, while encouraging, should gradually be improved, especially since 11 per cent of under-five-year-olds in rural areas are still not registered. That is why 2008 marked a milestone for universal, timely and free registration, as States committed to reducing under-registration by 2015. That commitment was endorsed in 2011 at the Panama Conference, placing special emphasis on the most vulnerable and excluded persons.

2. The equity angle

It is crucial that States protect vulnerable groups in particular. This presupposes adding an equity perspective to birth registration. One of the major problems with State civil registries is the inflexibility of the public administration system, i.e. a situation where a single way of conducting certain procedures prevails. It has been found that officials encounter difficulties with registration owing to the fact that they do not consider the particular situation of the person seeking the registration service. This causes delays in registration and, as a result, delays in the State's recognition of the rights of the person in question.

A similar problem occurs in the case of stateless persons, who often find themselves in a particularly vulnerable situation due to non-recognition of their special situation. There are many aggravating circumstances, such as when migrants cannot prove their original nationality, when they are unregistered persons from the border region, nomads and semi-nomads within States or when persons maintain nationality ties with foreign States. In order to avoid this problem, it is recommended that States comply with the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. Such efforts should be aimed primarily at avoiding the loss of nationality.

Indigenous peoples have also had to face the problem of inflexible procedures, especially since some States only use one language in administration although it recognizes others, even as official languages. In the same vein, civil registries do not identify persons as belonging to any specific ethnic group, which should be the choice of the persons in question.

3. Barriers to birth registration

Unregistered persons risk not having their rights or entitlements to social benefits recognized. In the case of children, this implies being exposed to child labour, arrest and human trafficking. Often they can go to school but do not receive a school certificate. However, these obstacles can be overcome, largely through training and sensitization. These programmes, nevertheless, require constant budget support as part of a State policy.

Registration systems are often defective due to a lack of national policies with appropriate legal and information frameworks and institutional flaws. States must take into consideration the fact that civil registries are good indicators for gauging the efficiency of the State in general and the relevant authorities in particular. This will guarantee a service that is not off-putting, along with the presence of a social guardian to assist the person in need in completing the registration and provide advice. In practice, a recurring problem is that of children who leave the hospital without being registered although the hospital has its own registry. This situation is further exacerbated in the case of border children. This problem is linked to the absence of a “registration culture” among people. After all, if parents do not have proper documentation, it is most likely that their children will not either since they consider that it is not necessary.

Civil registries must make it possible for mothers to register the birth of their child immediately after the birth. This implies the involvement of the authorities under the Ministry of Health, all hospital staff and civil registry staff, especially in a social worker capacity. Similarly, deadlines for parents to register the birth of a child should be removed, as well as laws imposing fines or sanctions for late registration. Provision should be made for dispensing with the need to go through the courts to correct errors in the birth certificate so that the procedure remains an administrative one and does not constitute an obstacle. Laws must guarantee non-discrimination against minorities, and must in no way encourage discrimination based on social status or birth. This goes hand in hand with the fact that under-registration is higher in places where births do not take place in hospitals, which is why joint initiatives should be taken with community leaders and midwives. They in turn should receive the same training as hospital staff and documentation so that when attending to a birth, they know which hospitals are close by and offer registration services.

Other barriers to birth registration include: a) at the cultural level, mothers do not register the child because the father is not present; b) at the administrative level, parents think that paying the hospital bill is a requirement for registering the child; c) at the legal level, often parents themselves do not have a birth certificate or identity documents. Consideration must be given first and foremost to the determining factors needed to overcome under-registration, such as

political commitment, leadership and public funding. Second, consideration must be given to the fact that the consequences of non-registration are irreparable for children and that investment in registration services guarantees the fulfilment of all their rights.

In conclusion, civil registration fails for four reasons: absence of a legal framework; institutional flaws; lack of information and non-existent national policies. These deficiencies are compounded by obstacles encountered by citizens such as the existence of cumbersome procedures, economic difficulties and cultural problems such as language. Indeed, it would be pointless to develop public policies without securing the corresponding budget support from the State. That is why States must do their utmost to guarantee the accuracy of certificates, provide input to vital statistics and establish identity, institutional capacity, infrastructure, interconnectivity and inter-operationalization to have an effective civil registry. For example, the Organization of American States (OAS) promotes the issuance of national ID cards and the correction of errors in identity documents.

4. Parliament's role in advancing birth registration

Parliaments often encounter obstacles in legislative matters, in particular criminal matters, especially given the absence of clear data on the situation of children's right to an identity. This in turn makes it difficult to substantiate the real situation of victimization from which children suffer.

From now on, the legislature should focus on establishing new mechanisms and using inter-parliamentary cooperation to find ways and means of ensuring that children are registered. To achieve that, it will be crucial to set up working groups with a mandate to monitor progress in parliamentary action in this area. In this respect, both UNICEF and the IPU should implement the mechanisms required by this proposal.

The Congress needs to pass effective laws aimed at ensuring the registration not only of adults of voting age but also of children. Only appropriate laws can prevent abuses such as forced labour, human trafficking and sexual slavery, caused because the right to an identity is not guaranteed.

5. Promoting birth registration as part of a comprehensive child protection and development agenda

Child protection and development are often impaired by the inability to implement programmes of assistance that reach a majority of persons due to the absence of birth registration. As a result, registration is a sine qua non for exercising one's rights, especially in the case of indigenous peoples and persons who have been adversely affected by various situations, such as armed conflict.

UNICEF has a crucial role to play in promoting public policies on birth registration. However, it is up to States and their citizens to devise mechanisms aimed at guaranteeing the rights of children.