




mother to child

HOW DISCRIMINATION PREVENTS WOMEN
REGISTERING THE BIRTH OF THEIR CHILD





Founded almost 75 years ago, Plan is one of the oldest and largest children's development organisations in the world. We work in 50 developing countries across Africa, Asia and the Americas to promote child rights and lift millions of children out of poverty.

Plan is independent, with no religious, political or governmental affiliations and works with nearly 58,000 communities each year, covering a population of 56.5 million children.

Plan has been working on achieving universal birth registration since 1998, launching a global campaign – Count Every Child - to focus on the issue in 2005. Since then, over 40 million people, mainly children, have been registered, with hundreds of millions more benefiting from improved policy and legislative change that Plan campaigned for.

plan-international.org/birthregistration

This paper is based on work commissioned by Plan International and carried out by the University of the Highlands and Islands Centre for Rural Childhood, Perth College, Scotland.

The researchers were Annie Audsley, Nicole McCloy, Professor Rebecca Wallace (Centre Director), and Karen Wylie. It highlights Plan's key concerns arising from the work in order to inform its advocacy and campaign work.

For a copy of the full report, visit:

www.perth.uhi.ac.uk/ruralchildhood



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Photo: © Paolo Black for the Young Health Programme

why birth registration matters

PLAN HAS BEEN CAMPAIGNING FOR EVERY CHILD
TO BE REGISTERED AT BIRTH SINCE 2005

Being registered when a child is born is the first legal acknowledgement of a child's existence. Without registration, children are invisible to the authorities and may be denied their other rights, including their right to health care, to education and to claim inheritance. They're also more vulnerable to being trafficked, recruited into armed groups, and forced into hazardous forms of labour and underage marriage.

Every child has the right to a name and an identity. Yet every year millions of babies are not registered. In developing countries (excluding China), only half of children aged under five are registered. In South Asia alone, 23 million under-fives aren't registered, while sub-Saharan Africa has the highest percentage (66%) of unregistered under-fives.¹

There are many reasons for this, including lack of awareness about the importance and value of registration, and centralised bureaucracies that make it complicated and expensive. For many families struggling against poverty or living in remote rural areas, registration is too costly in terms of both time and money. Parents from minority language or ethnic groups, or who are internally displaced or refugees, face particular barriers.²

¹ Plan (2009) Count Every Child: The Right to Birth Registration

² Ibid

discrimination against women – the research

ONE OF THE POSSIBLE REASONS FOR NON-REGISTRATION THAT EMERGED DURING PLAN'S COUNT EVERY CHILD CAMPAIGN PROGRAMME WORK IS DISCRIMINATION AGAINST WOMEN.

Subsequent research on 50 countries in Africa, Asia and Latin America and the Caribbean shows that – even though most countries' laws don't state specifically that a mother can't register her newborn baby – indirect discrimination and cultural practices often make it difficult or impossible for her to do so.

The work took place over three months and consisted mainly of desk-based research looking at the legislation of 50 countries where Plan works,³ and at their reports to the UN Committee on the Rights of the Child, the Committee for the Elimination of All forms of Discrimination against Women and the US State Department Human Rights Committee. An online survey with a small number of representatives identified by Plan, its partners and/or women's organisations provided a snapshot of the practical situation in each country. Although based on a small sample, the survey suggests that even where legislation gives women an equal right to register their children, lack of implementation of those laws, prejudice and traditional customs mean that in many countries women are prevented or deterred from doing so.

³ For information on these countries, see <http://plan-international.org/where-we-work>





INTERNATIONAL CONVENTIONS AND REGIONAL CHARTERS

Nearly all the countries covered in the research have signed up to at least some of the following international human rights conventions – and, in the case of Africa, to a regional charter – which outlaw discrimination against women and children, and recognise the right of every child to an identity and nationality.

- **Convention on the Rights of the Child 1989** – Articles 7 and 8 oblige States to ensure that every child is registered at birth and has a name and nationality.
- **Convention on the Reduction of Statelessness 1961** requires States to confer nationality to children born on their soil who would otherwise be stateless, including those born in wedlock to a mother who has the nationality of that State.
- **International Covenant on Civil and Political Rights 1966** states that every child shall be registered immediately after birth and have a name.
- **Convention on the Elimination of All Forms of Discrimination against Women 1979** condemns discrimination against women and requires States to embody the equality of men and women in their national constitutions and legislation, including the right to acquire or change their nationality and confer nationality to their children, except where this is contrary to national legislation or national security.

However, unless these Conventions are reflected in national legislation and implemented in practice, signing conventions and charters remains a hollow gesture.

national legislation

National laws relating to birth registration

Most countries covered in the research have laws that specify who can and should register the birth of a child. In most cases there is nothing in those laws directly prohibiting a mother from doing so.

However, **Laos, Nepal**, and some areas of **Pakistan**, specify that if a birth takes place at home, the head of the household has the primary responsibility to register the child. In most cases this will be the husband or, for single women, their father or another male relative. Rarely will a woman be head of household herself, and therefore may have difficulties in registering her own child.

In several countries, including **Brazil**, the **Dominican Republic, Ecuador** and **Sudan**, the father has primary responsibility for registering a child. It is only in his absence that the mother would do so.

patriarchal attitudes and culture

Both survey responses and country reports indicated that, even in those countries where the law gives women an equal right to register their children, discriminatory attitudes and cultural practices affect their ability or inclination to do so. Patriarchal attitudes affect the status of women, their autonomy, economic independence, levels of education (and therefore ability to deal with bureaucracy) and, in many cases, their ability to act without the consent of their husband, parents or in-laws.

Women who are unmarried when they give birth face particular obstacles. Shame and stigma were cited as reasons why an unmarried mother may not register her baby in **Bangladesh, Benin, Bolivia, Cameroon, China, Ecuador, Egypt, Guinea Bissau, India, Indonesia, Kenya, Malawi, Pakistan, Sierra Leone, Sudan, Togo, Uganda, Zambia** and **Zimbabwe**.

In **Sudan**, adultery is a capital offence. Unless an unmarried pregnant woman can prove she was raped, she can be arrested, which

implies that unmarried mothers are unlikely to register the birth of their child. In **Cameroon**, women and children are sometimes seen as the property of their husband or father. An unmarried woman needs two witnesses to testify to the paternity of her child for a birth certificate to be issued.

In **Sierra Leone**, a child can't be registered if she or he is born out of wedlock and isn't acknowledged by the father. In **Bangladesh**, and some other countries, the stigma and threat of violence attached to having a child out of wedlock can be so strong that in some cases women abandon their child.

Ignorance and prejudice

Ignorance and prejudice on the part of officials can perpetuate discrimination. In **Egypt**, for example, many officials are unaware that changes to the law in 2008 gave women an equal right to register their children and therefore may refuse to let a woman register her baby. In **Burkina Faso**, although the law allows anyone to register a birth, cultural practices allow only the male head of the family to do so.



In **Ecuador**, despite the law saying that a mother's marital status shouldn't be recorded on the birth certificate, officials may demand the husband's details, which can deter single mothers from registering a birth.

In **Cambodia**, treatment by staff at the commune council, along with illiteracy and lack of time due to workload, were cited as reasons for single mothers not registering their children.

In **Mozambique**, women whose husbands are away working can find it difficult to register their child because registrars won't let them do so without their husband being present. In **Rwanda**, the fact that registrars may demand to see a marriage certificate can deter single mothers.

Traditional customs

Traditional customs can also make it impossible for women to register their child. In **Guatemala**, for example, a child can be registered for free up to 30 days after birth. As women are supposed to be 'confined' for 40 days after giving birth,

this can prevent them registering their child, especially if they are poor. The period of confinement is also longer than the time allowed for registration in some communities in **Kenya**.

Additional barriers

In all countries it is the poorest women who are least likely to register their children.

And in many, women from minority groups face additional barriers. In **Indonesia**, children of unofficial polygamous or inter-religious marriages or where the parents aren't married (dowry is a barrier to formal marriage for some ethnic groups) can only be registered under the mother's name. However, often the father won't allow registration without his name, so the children go unregistered. In **Brazil**, when parents from the indigenous populations need a birth certificate they first go to the National Foundation of Indians to be recorded, and then have to visit the civil registry office, which leads to additional costs in terms of time and money.⁴

⁴ Plan (2009) Count Every Child: The Right to Birth Registration



Photo: Plan / Daniel Silva



Photo: Plan

what needs to change

Among the countries covered in the research, there were few examples where the law directly prohibits a mother from registering her child. However, there are many instances where women are discouraged or likely to find it very difficult. By itself, the law cannot end discrimination against women. What it can do is provide a standard-setting tool that can strengthen the hand of those trying to change discriminatory practices.

- Laws that are seemingly gender neutral may in fact be biased in favour of men, for example, when they refer to 'head of household'. Others may be applied by officials who are prejudiced against women, or against particular groups of women. States need to ensure that laws are implemented in a non-discriminatory way, and that actions are taken against those who break them.
- International conventions are also a vital basis for protecting women's and children's rights, but States must adhere to them in practice. It is important that the committees of the UN Treaty Bodies continue to monitor and report on States' practice, and that they hold them to account.
- States must ensure they are acting in accordance with their obligations. It's not enough to have signed up to international conventions or introduced a Constitution or legislation affording women rights if governments don't take the necessary measures to address discrimination in practice. States must do everything in their power to remove the multiple barriers women face in registering their children, including the specific barriers faced by those women who are most marginalised.
- One of the main conclusions from Plan's research is that more detailed research is needed to determine the impact of prejudice and discrimination against women on birth registration rates. Until this is carried out, and discriminatory practices are eliminated, millions of children could be going unregistered.

recommendations

ON THE BASIS OF THIS WORK, PLAN RECOMMENDS THAT:

- More in-depth research is needed to identify and address the ways in which women's experience of gender discrimination – and how this intersects with other forms of discrimination, such as those based on ethnicity or socio-economic status – affect their ability to ensure that their children are registered.
- There are public education programmes promoting the advantages of birth registration and supporting a woman's right to register her child, taking into account women's lower levels of education and the disadvantages faced by women from particular ethnic groups and those living in remote rural areas, especially in States where registration rates are below 70% for under-fives.
- Awareness-raising around attitudes that discriminate against women, including training registration staff in those countries where gender neutral laws exist but discrimination persists, is carried out.
- International and regional legal instruments (eg, the UNCRC, CEDAW and the African Charter) that outlaw discrimination against women and give every child the right to a nationality are adhered to by States.
- Registration rates of children are closely monitored in every country and rates included in reports submitted to the Committee on the Rights of the Child.
- Where necessary, national legislation is introduced that gives women an equal right and ability to register their child and pass on their nationality or, where such laws already exist, measures are taken to ensure they are implemented.



Photo: Plan / David Mutoria



Plan

Plan
International Headquarters
Dukes Court
Block A
Duke Street
Woking
Surrey
GU21 5BH
United Kingdom

Tel: (+44)1483 755 155
Fax: (+44)1483 756 505

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