

Exclusion of “Fatherless” Persons from Birth Registration & National Identity Systems in Uganda: Implications for Ethics & Human Rights Policy & Programming

1.0 Background:

Birth registration is a fundamental step in establishing an individual’s legal identity. It serves as a gateway to various rights including access to social services. Over the last decades, revitalization of civil registration and vital statistics systems (CRVS) in low and middle income countries has majorly focused on increasing levels of birth registration. However, this has led too critical observations on exclusion of vulnerable populations leading to violations of human rights ethics during civil registration processes. For example, a study in Indonesia (Duff, Kusumaningrum, & Stark, 2016) highlighted the complex relationship between marital status and birth registration uptake. The high costs associated with wedding/ marriage ceremonies in Indonesia have deterred couples from legalizing their unions; yet lack of a legal marriage document leads children born to unmarried couples to acquire “*birth certificate specific to children born out of wedlock*, leading to humiliation, disgrace, stigma and non-birth registration (Duff et al., 2016). This further heightens violation of children’s human rights and is also unethical practice. Additionally, the gap between policy and programme implementation – majorly due to socio-cultural customs exhibited in these patriarchal societies - further heightens violation of ethical and human rights in the civil registration processes. Kumar and Saikia (2021) highlights the gap between birth registration laws and practice in India, where its legal framework allows registration of births without the father’s details. Despite the law, birth registration practices remain low in cases where father’s information is missing due to the patriarchal nature of the Indian population, where male dominance attitudes and male headship are highly revered (Kumar & Saikia, 2021).

Uganda operationalized national legal identity systems, following the Registrations of Persons Act (Kumar & Saikia), which framework also revitalized civil registration (birth and death registration) and vital statistics and repealed the Births & Death Registration Act – Chapter 309 (1973). National identification and civil registration systems are critical for protecting each individual’s human rights and facilitating diversity, inclusion and equality in accessing the benefits of civil registration systems including access to public services (United National General Assembly, 2015). Notably, these systems are meant in part to enable every individual acquire legal identity, and also enhance evidence based policy formulation, improved access to social services (Philip et.al, 2015) in addition to access to reliable and timely population data. However, enactment and implementation of this policy and programming has led to discrimination and exclusion of vulnerable persons among others “fatherless persons” - persons whose biological fathers maybe unknown or ‘absent’ for various reasons, majorly excluded due to the patriarchal nature of Ugandan society and laws.

Exclusion of “fatherless” children from birth registration processes leads to ramifications in their ability to obtain national identification. Such exclusion and marginalization in the Uganda’s registration systems have diverse ethical and human rights implications in addition to unreliable population data which have to be addressed as a means of addressing diversity, inclusion and equality in population registers and civil registration systems in Uganda.

However, when “fatherless children in Uganda” are omitted from birth registration or denied registration services, this is not only a demographic issue regarding birth registration and

vital statistics. It is also a legal issue concerning denial of one's human rights as birth registration is a fundamental human right. Similarly, such children still face challenges at the age of 16 years during legal/ national identity registration processes. The nexus between human rights and registration of vital events such as live births can be traced right from the Universal Declaration of Human Rights (1948) and currently through the Sustainable Development Goal agenda – “*Leaving No One Behind*”. Universal identification and registration coupled with globalization, evolving cultural norms or practices and new technologies (digitization) have presented a new set of challenges to human rights and ethics. Brolan (2019) noted that that human rights practitioners have long been excluded from population and civil registration global discussions and debates; and justifies the need to bring them to the forefront.

Effective civil registration systems in Uganda and elsewhere have been found to enhance access to public/ social services such as education and health. Using an innovative human rights approach, the research seeks to explore the ethical and human rights implications surrounding exclusion of “fatherless” children in Uganda.

1.1 Objectives:

1. To document/ conduct a situational analysis of the ethical and human rights issues associated with legal national identity registration and birth registration systems in Uganda.
2. To explore the ethical and human rights issues associated with legal national identity registration and birth registration of “fatherless” persons in Uganda.
3. To examine the gap between policy and implementation of birth and national identity registration processes.
4. To formulate policy recommendations for inclusion of “fatherless” children in the legal national identity and birth registration systems in Uganda.

2.0 Data & Methods

Research Engagements

These findings presented in this work are majorly based on primary qualitative data collection methods. These include desk review of legal frameworks, policies and documents on population/ civil registration, focus group discussions with young persons (boys and girls), in depth interviews and key informant interviews with a wide selection of interdisciplinary stakeholders, in addition to engagements with civil society organizations – Federation of Women Lawyers (FIDA), Government Ministries and agencies involved in civil registration (NIRA) and social protection (Ministry of Gender, Labour and Development - MoGLSD), academicians and Uganda Parliamentary forum on Social Protection among others. In-depth interviews were collected from purposively sampled participants who would be considered as “fatherless” children or are born to single mothers (including those whose mothers separated/ divorced) who are no longer in contact with the fathers of these children and have experienced exclusion from national identification and birth registration systems. Data has been collected from two districts in Central Uganda – Kampala (capital city) and Mukono (sub-urban district). Only persons above 18 years were considered for interviews.

Ethical considerations include ensuring informed consent, privacy, confidentiality of information, voluntary participation of participants, data protection in a secure cloud among others. Qualitative data analysis was done using Atlas-ti, based on thematic and content analysis. Triangulation of research findings from the various methods was done.

3.0 Ethical & Human Rights Issues

The exclusion of fatherless children from birth and national ID systems has far reaching ethical, human rights and developmental implications. Overall, it perpetuates inequality, legal uncertainties, social stigma and impediment to social services as further explained below.

1. **Lack of Legal Identity:** Exclusion of these children denies them a sense of identity, belonging and equal standing in society.
2. **Gender Bias: Discrimination of mothers/ Gender inequality in birth registration:** Denial or delay from birth registration processes when father is unknown or details are missing. Humiliation and stigma of mothers by registration officers and health workers, in cases where they lack such information. Preference is given to availability to father's information compared to mother's bio-data.
3. **Social Stigma:** Exclusion of these children perpetuates social stigma and reinforces traditional family and patriarchy norms. This may contribute to marginalization of fatherless children, and single parent families.
4. **Legal implications:** The absence of a father's information in birth registration creates legal complexities for the child. Exclusion of father's details may result in incomplete documentation limiting access to legal recognition and citizenship rights.
5. **Data misuse:** Children and caregivers lack agency to determine usage of the data submitted to the registration Authority. Lack of strong regulation on data, privacy and confidentiality can lead to serious breach of ethical values and human rights
6. **Stigmatization and ridicule of mothers who opt for intro-vitro reproduction (artificial reproduction)** as this is seen as alien or immoral in most African societies.
7. **Impediment of access to social services due to lack of registration documents.** These children are unable to enjoy the full benefits arising from possession of a national ID such as voting rights, employment, social protection programs, banking services and access to mobile phone services.

4.0 Recommendations

These recommendations aim to promote a more inclusive, efficient and rights based approach to population registration in Uganda under the purview of NIRA.

- i. There is need for legal reforms in governance and implementation of Population registration systems (Civil Registration & Vital Statistics) particularly the Registration of Persons Act (ROPA) 2015. Relatedly, NIRA should expedite the formulation of a Civil Registration policy. These legal reforms should expunge patriarchy related clauses, ambiguous clauses that tend to cause further exclusion of persons from registration systems and notably simplify the birth registration processes of "fatherless" children. Relatedly, NIRA needs to adapt policies and regulations or guidelines to evolving needs and challenges in population registration. Legal clarity contributes to increased compliance and reduces the risk of exclusion.
- ii. NIRA should develop and implement inclusive policies that recognize diverse family structures and modern/ artificial reproductive technologies, and ensure that no child is 'left behind' or excluded from birth and national ID registration systems based on parental

status specially patriarchy related context of father's documentation.

- iii. Collaborate with civil society organizations working in child welfare, human rights, family advocacy, to address registration challenges faced by marginalized and vulnerable populations such as fatherless children, children born of war/ those in conflict affected areas, street children, children born to single mothers and absentee fathers. Such partnerships can provide valuable insights and access to vulnerable populations that are often excluded from registration systems. This will ensure that the concerns of marginalized populations are taken into account in policy development and implementation.
- iv. NIRA needs to ensure effective translation and implementation of policies into practice across all stakeholders involved in the registration processes. There is need to train and build capacity of population registration cadres to ensure that they effectively interpret and implement issued guidelines and regulations related to parental documentation in population registration systems.
- v. Explore alternative methods for documenting parentage or nationality especially in cases where the father's identity is unknown in order to facilitate registration of all children.
- vi. Conduct research to identify international best practices recommended for registering 'fatherless' children and children from non-conventional or traditional family set ups, drawing on successful experiences of other countries like South Africa.

References

- Brolan, C. E. (2019). Human rights practitioners cannot be left behind: Engaging in Civil Registration and Vital Statistics (CRVS) systems thinking for country implementation of the Sustainable Development Goal agenda. *Journal of Human Rights Practice*, 11(1), 22-51.
- Duff, P., Kusumaningrum, S., & Stark, L. (2016). Barriers to birth registration in Indonesia. *The Lancet Global Health*, 4(4), e234-e235. doi: 10.1016/S2214-109X(15)00321-6
- Kumar, K., & Saikia, N. (2021). Determinants of birth registration in India: Evidence from NFHS 2015–16. *PLOS ONE*, 16(9), e0257014. doi: 10.1371/journal.pone.0257014
- Mitreuter, S., Kaiser, M., Roupetz, S., Stelzl-Marx, B., Kuwert, P., & Glaesmer, H. (2019). Questions of Identity in Children Born of War—Embarking on a Search for the Unknown Soldier Father. *Journal of Child and Family Studies*, 28(11), 3220-3229. doi: 10.1007/s10826-019-01501-w

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