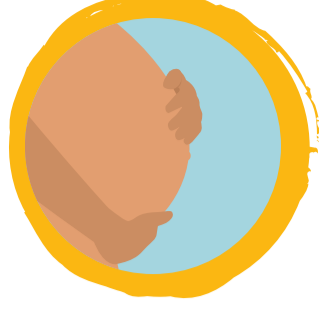


# BIRTH REGISTRATION IN SOUTH AFRICA

Birth registration in South Africa is a legal right. Accessing it in reality can be difficult, especially for children born to non-South African parents.

To find out more about this issue, visit [www.genderjustice.org.za/explainers](http://www.genderjustice.org.za/explainers)

## WHAT IS BIRTH REGISTRATION?



In international law, every child – wherever they are born, and whoever they are born to – must have their birth registered. This means that the birth is officially recorded by a branch of a government or state. Normally, this is completed upon a child's birth. In South Africa, the birth is registered by the Department of Home Affairs in the form of an unabridged birth certificate.

## WHAT DOES A BIRTH CERTIFICATE LOOK LIKE IN SOUTH AFRICA?

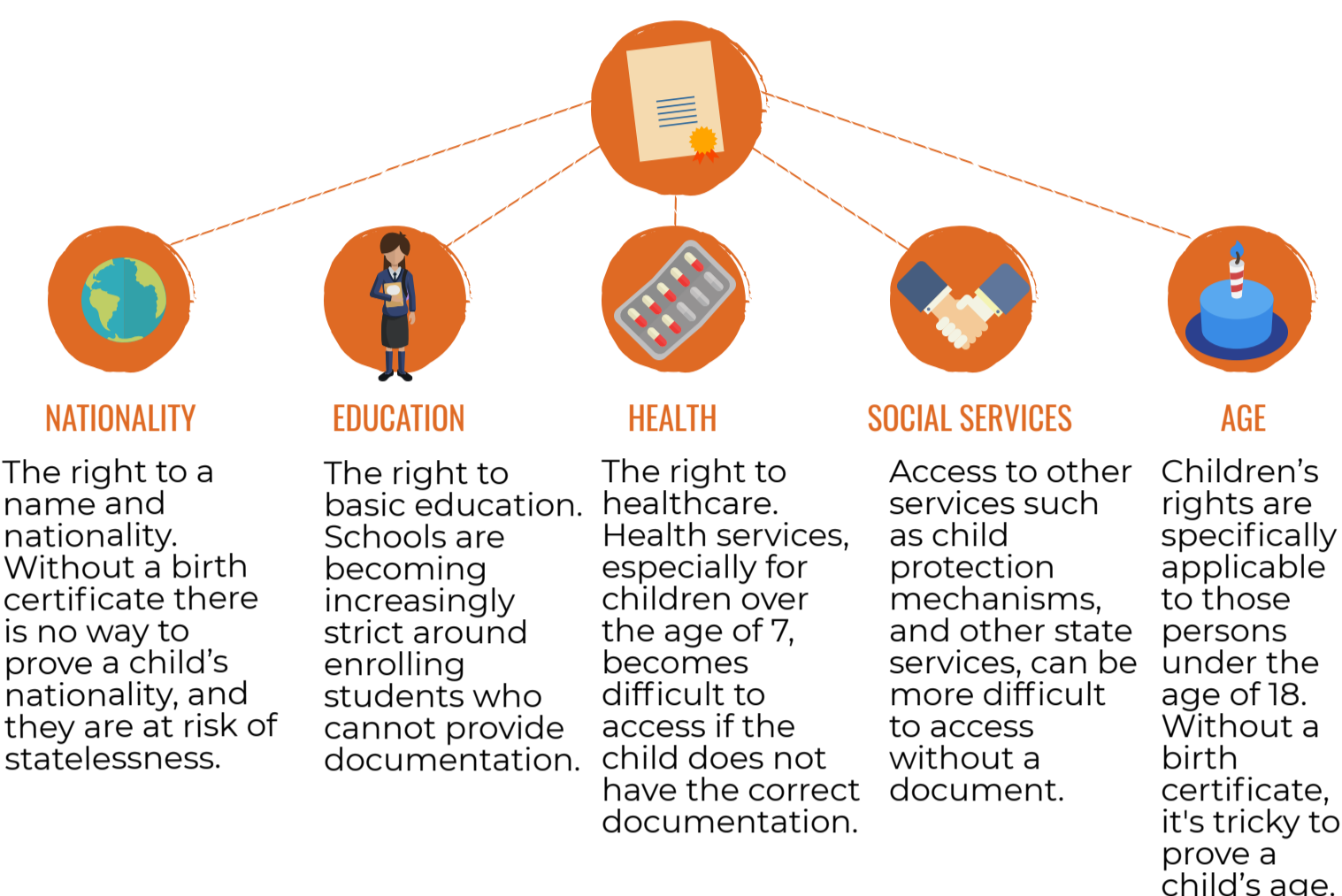
The Department of Home Affairs only issues 'unabridged' or 'long' birth certificates. This birth certificate includes the child's date and place of birth, name, and the parents' names, dates of birth, places of birth and nationalities. This means that this birth certificate can prove a claim to a child's nationality.

Children who do not qualify for citizenship are issued a certificate that does not include an ID number, and the child is not entered into the National Population Register.



## WHY IS BIRTH REGISTRATION SO IMPORTANT?

Access to some of a child's most fundamental rights flow from having a birth certificate. Here are some examples:



## WHAT DOES INTERNATIONAL LAW SAY ABOUT BIRTH REGISTRATION?

Here are some of the international laws that speak to birth registration – of which South Africa is a signatory. This means they are bound to follow these laws.

- 1948 Universal Declaration on Human Rights**  
Article 15: everyone has the right to nationality. No one shall be arbitrarily deprived of his nationality.
- 1989 United Nations Convention on the Rights of the Child**  
Article 7: a child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality.
- 1966 International Covenant on Civil and Political Rights**  
Article 24: every child has the right to the protection which their status as a minor grant them without any discrimination as to national or social origin.
- 1999 African Charter on the Rights and Welfare of the Child**  
Article 6: Every child shall have the right from their birth to a name. Every child shall be registered immediately after birth and every child has the right to acquire a nationality.

## WHAT DO SOUTH AFRICAN LAWS SAY ABOUT BIRTH REGISTRATION?

- The Constitution of South Africa: The Bill of Rights**  
Section 28: every child has the right to a name and a nationality from birth. In South Africa, these rights can only be brought to life through the possession of a birth certificate.
- The Births and Deaths Registration Act**  
This provides for birth registration of all children born within South Africa - whether they are born to South African or non-national parents. Children born in South Africa who do not qualify for citizenship are entitled to a birth certificate under this Act.

## WHAT IS A LATE REGISTRATION OF BIRTH?

In South Africa, any birth that is not registered after thirty days is considered a Late Registration of Birth. There are several extra documents that are needed to apply for this, including a form completed by a medical practitioner who attended to the birth of examined the mother after birth, an affidavit by a South African citizen who witnessed the birth and, in cases where one or both parents are non-South African, certified copies of valid passports, visas, or asylum documents are required. This is problematic in many cases and children are left without birth certificates. a

## WHAT ARE THE BARRIERS TO BIRTH REGISTRATION OF NON-SOUTH AFRICAN CHILDREN?

Due to the regulations that exist, there are a growing number of non-national children who are living without any proof of birth.

### Requirement that both parents prove current legal stay in South Africa

Whilst it might seem like a logical requirement of non-nationals in South Africa, obtaining valid documentation in South Africa can be complex and, sometimes, impossible, due to strict immigration rules and difficulty in accessing the Department of Home Affairs - especially Refugee Reception Offices, where asylum claims are lodged and processed.



### Recent developments

In 2018, the SA government published its proposed new regulations to the Births and Deaths Registration Act. Instead of making it easier for non-national children to have their births registered, (as recommended by the UN Committee on the Rights of the Child and as ordered by the court in the Naki case) the new regulations propose removing birth registration for non-national children entirely.

In press statements and submissions on this issue, civil society urged the Department of Home Affairs not to pursue this amendment.

## I HAVE MORE QUESTIONS. WHO CAN I ASK?



There are several organizations working on this issue. Here are the contact details of three organisations:

The Scalabrini Centre of Cape Town | [info@scalabrini.org.za](mailto:info@scalabrini.org.za) | 021 465 6433

Legal Resources Centre | [info@lrc.org.za](mailto:info@lrc.org.za) | 021 481 3000

Lawyers for Human Rights | Musina: 015 534 2203 | Durban: 031 301 0531 | Pretoria: 012 320 2943 | Johannesburg: 011 3391960.

### Applying for Late Registration of Birth?

If you are planning to apply for a Birth Registration of Birth, we recommend that you look at the Regulations and contact your local Department of Home Affairs office to find out more. If you need further information, contact one of the organisations above.

