



PROOF *OF* BIRTH

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CHAPTER 12

The way forward

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Introduction

It is clear from the chapters of this book that the majority of Australians do not experience any significant difficulty registering a birth and obtaining a birth certificate. For this reason, the contributors to this collection have not suggested that the entire birth registration system is broken or in need of major overall. Rather, as AJ Lanyon and David John say in Chapter 4,

what is required is the development and resourcing of targeted strategies to address the sub-groups of the population more likely to be at risk of not registering the birth of a child.

This chapter explores some targeted strategies, and highlights good practices that are already being implemented to increase birth registration rates within Indigenous communities and other vulnerable groups.

At the outset it is important to emphasise that any recommendations and reforms to birth registration,

access to birth certificates and changes to identification documents must only be considered after proper consultation with, and the participation of, Indigenous communities and representative organisations. This is consistent with Article 19 of the Declaration of the Rights of Indigenous Peoples, which provides that:

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Recommendations

An analysis of the chapters gathered together in this book and the papers presented at the Achieving Universal Birth Registration Symposium reveal six areas where improvements could be made that would make a significant difference to how accessible and user-friendly the birth registration system is for disadvantaged sections of the community. These six areas, discussed in detail below, are: (1) Education, (2) Multi-stakeholder solution, (3) Outreach, (4) Technology, (5) Financial assistance, and (6) Reduced reliance on a birth certificate as proof of identity.

1. Education

Although birth registration is recognised as a human right in international law,¹ in Australia it is more often perceived as a responsibility than a right. One of the ways of increasing birth registration rates in Indigenous communities would be to increase awareness of birth

registration as a human right that every child has, and to emphasise the benefits that flow to children from having a birth certificate.

The importance of birth registration to the child needs to be emphasised at a number of key life events, including:

- at the birth of the child;
- at baby health checkups;
- when parents register the child with Medicare and/or Centrelink;
- at school enrolment;
- to young individuals at upper secondary;
- to 16- to 17-year-old youths who may be contemplating getting a drivers licence and other forms of ID.

Education about the importance of birth registration and birth certificates should not only be directed to parents. There needs to be a widespread public awareness campaign that engages health workers, maternal health personnel, case managers and legal service providers. These professionals have a key role to play in promoting and supporting many disadvantaged groups with accessing the birth registration system, and filling out the requisite forms. As the changes in the international section highlighted, integrating birth registration with health services has been proven to significantly increase birth registration rates.

Health services such as Koorie Maternity Services, public and private midwife services, hospital and GP

services, and post-partum support providers such as Maternal and Baby Health services are ideally placed to discuss birth registration with new parents. These staff can assist people who may be unable or unwilling to complete the birth registration process.

However, the primary responsibility for education about the importance of birth registration and birth certificates must lie with the state and territory Registrars of Births, Deaths and Marriages. When the Victorian Law Reform Commission conducted an inquiry into birth registration and birth certificates (see Chapter 3), it noted that the legislation regulating births does not mandate that the Registrar's functions include undertaking public education or awareness-raising about birth registration.² The Commission therefore made the following recommendation in relation to the Victorian legislation, which is equally applicable to the equivalent Acts in other Australian jurisdictions:

The Registrar's general functions, as set out in section 6 of the *Births, Deaths and Marriages Registration Act 1996* (Vic), should be amended to include the promotion of public awareness of the importance of birth registration through the conduct of education and information programs.³

Such legislative reform will need to be accompanied by government funding to allow Registrars to develop educational programs and to implement more effective communication strategies.

2. Multi-stakeholder solutions

Like any complex problem, solutions to the issues of under-registration and difficulties obtaining a birth certificate must be multifaceted. No single entity can provide a complete solution to low birth registration rates within Indigenous and other communities, and problems accessing a birth certificate. However, different sectors working together can make great advances in developing solutions. In Chapter 6, Will Winter illustrated a successful community-based intervention to increase birth registration in vulnerable communities in Australia, which involved collaboration between government, civil society, educational institutions and philanthropic organisations.

A first step is to increase the recognition of birth registration issues, by way of advocacy to governments at all levels. Governments depend on accurate birth data for many reasons, and it is therefore necessary to emphasise the importance of birth registration to all relevant government departments, as well as policy makers and legislators. Governments also benefit from accurate birth registration information in health statistics, addressing law and justice issues, providing community services, educational and health infrastructure, and much more.

Although birth registration is primarily the responsibility of state and territory governments, there is also a role for greater federal engagement. Essential services provided by the federal government, such as Centrelink and Medicare, could help increase birth registration by

inquiring of parents whether they have registered the child's birth, and providing tangible assistance to obtain a birth certificate, if parents haven't yet obtained one. In this way, incidents of non-registration could be addressed in a timely way, rather than children not having a birth certificate for potentially many years.

As Lanyon and John noted in Chapter 4, 'cross-sectoral/cross-agency work can achieve so much more' than governments working alone. Increasing the rate of birth registration in Indigenous and other vulnerable communities will only be achieved if key stakeholder and community groups work together collaboratively.

3. Outreach

Decentralisation of birth registration and certification processes, increased use of mobile birth registration units, and training of non-registry personnel to assist in birth registration processes are all likely to contribute to an increase in birth registration in non-metropolitan communities. In most Australian jurisdictions, the birth registration systems are capital-city centric. Individuals must either submit their applications to register a birth and/or obtain a birth certificate in person or by post (including the requisite fee in the case of a birth certificate), Victoria being a notable exception, with approximately 25 regional Justice Centres able to process applications for birth registration.

The cost of running outreach programs is not insignificant. However, the success of the Minimbah project (Chapter 6) and periodic visits to remote regions

of Western Australia by the Department of Transport, Fines Enforcement, Births, Deaths and Marriages and Centrelink, to provide a 'one stop shop' to Indigenous communities (Chapter 5), demonstrate that bringing services and support personnel to isolated communities can be very effective at increasing birth registration rates.

Regardless of whether the outreach programs are initiated by community groups, NGOs or government, they require the cooperation and support of the relevant Birth, Deaths and Marriages registries, including making key staff available on site. It would be useful for all Registrars to have specific policies and resources to facilitate outreach programs, in cooperation with community groups or other government agencies, on a continuing basis. A commitment by Registrars to regular outreach programs targeting communities where there is evidence of low levels of birth registration would likely see a significant improvement in birth registrations within these communities.

4. Technology

Across Australia, birth registration depends on paper applications submitted in person or by post. To make birth registrations processes more accessible to all, there is an urgent need to move towards online processes and away from purely paper forms of birth certificate.

There are digital birth registrations systems in place in other countries that Australian governments should be closely examining. There is much we could learn from the innovations being implemented in Uganda and other African nations that make use of web-based technologies

and smart phones (described by Jack Register in Chapter 10). The use of digital processes have seen a sharp increase in birth registration rates, by making the registration and certification processes more accessible.

More thought needs to be given to coupling the existing 'birth notification' system to automatic birth registration; making a provisional birth certificate available to parents when leaving hospital (along the lines of the Ugandan model). This would require a process to be set up for parents to subsequently add or change the child's name (as is already done in Sweden and elsewhere). Such an approach could greatly reduce non- and lagging registrations. Rod Hagen is exploring this and other options in his PhD research.

In a related suggestion, in some jurisdictions enhanced cooperative efforts to link information between government departments are being used to facilitate the provision of identifying information needed by another agency (for example, transport) to support an application for documentation (for example, a driver's licence). It is recommended that all departments requiring personal information from another department develop enhanced processes for information sharing, even where this might involve interstate cooperation. Appropriate training in privacy laws may be required, as 'privacy' is often mistakenly invoked to limit information sharing, even where a person is willing to authorise the intra- or inter-government processes in order to facilitate access to necessary personal identifying materials.

Finally, technology can also be used to improve practices around birth certificates. Producing such an important document on a flimsy piece of paper is less than ideal. Paper is easily torn and is not a durable material for such an important document. Birth, Deaths and Marriages Registries receive numerous requests every year for replacement birth certificates, due to previous copies being lost or destroyed.

Canada has developed a solution that involves a material invented and used in Australia every day, producing its birth certificates on the durable, counterfeit resistant polymer that we use for our currency.⁴ As a result, they have found there has been a significant reduction in requests for replacement certificates.

Australia needs to bring its birth registration system into the 21st century, by embracing digital technologies to improve access to our birth registration system for ALL Australians.

5. Financial assistance

Fees are a known barrier to accessing certificates, and may even be a deterrent to registering a birth, due to confusion between the (free) act of registering, and the request for certificates (which currently cost between \$30–51). Further charges are incurred for replacement certificates, change of name and fast-tracked applications. The difficulties of access for low socio-economic applicants, and this includes many Indigenous Australians, is well recognised.

Registries should automatically issue the first birth certificate for free upon registration of Indigenous births.

This would reduce the administrative costs of the Registry in assessing applications for a fee waiver. Indigenous births account for roughly 5% of all births in NSW each year. Issuing free certificates to this proportion of the population would not create a large deficit in the Registry's annual income. Even in the Northern Territory, where the proportion of Indigenous births are higher,⁵ the amount of revenue waived would be only a very small proportion of the registry's overall budget.

All registries should also adopt a program of a fee waiver for certificates, accompanied by eligibility criteria, such as adopted in Victoria. Healthcare, pension and concession cardholders or others receiving Centrelink support (such as Youth Allowance or ABSTUDY) should be eligible for a fee waiver. There should also be residual discretion on the part of each Registrar to waive fees on a case-by-case basis if an individual does not fit within the above categories, such as in situations of hardship. In some cases, Registrars already have such power under the relevant statute, but may not be exercising their discretion often, if at all. Registrars should explore revising their policies and procedures regarding fees for certificates, and make information about fee waivers readily accessible to potential applicants.

Many of the documents, forms and websites that provide information on birth registration contain the warning that failure to register a birth within the prescribed period may result in a fine. Rarely are such fines imposed, as the Registrars know that that penalising people for registering (even when late) would act as a disincentive to

others to submit late registrations. However, it is recommended that all explicit references to late fines be removed, to lessen unintended disincentives to late registration.

6. Reduce reliance on birth certificate as proof of identity

Strict identification procedures have been implemented by both the registries themselves, other government departments (such as transport and education), and other parties (such as banks and superannuation funds) to address the perceived risk of identity fraud. In addition to making it easier for Indigenous Australians to access their birth certificate, we should also be reviewing how we can assist those who struggle to comply with the strict ID requirements (while ensuring the Register remains secure and maintaining the integrity of identification processes).

The Department of Transport in Western Australia has a 'Verification of Identity' form to assist participants living in remote areas to apply for a driver's licence where they are genuinely unable to meet the standard proof of identity requirements. This is a welcome development that other states and territories should consider. It would also be useful for the Western Australian Department of Transport to explore making this alternative identification process available to people in non-remote parts of Western Australia who are also unable to produce a birth certificate.

Establishing proof of identity could be made more user-friendly and accessible to Indigenous Australians by agencies and organisations accepting certificates of Aboriginality. Some community banks and educational

institutions already accept such alternate forms of ID, so as to reduce reliance on the birth certificate. All of these adaptations work to break the exclusionary ID requirement cycle that currently exists. These types of changes balance the Registry's competing interests of keeping the Register secure, as well as ensuring all people have access to vital community services.

Conclusion

This chapter has identified a number of strategies, and reforms to increase birth registration rates within Indigenous communities and other vulnerable groups, as well as highlighted good practices that are already being implemented.

As Rod Hagen's chapter reminds us, it is important that those seeking to improve rates of Indigenous birth registration endeavour to ensure that registration processes do no harm to those they seek to aid. In assessing this, it is important to consider whether the demands of the process itself may have an impact on traditional naming practices and associated customs, and to remember the historical misuse of past systems employed to identify Indigenous people, both in Australia and the rest of the world. As noted above, it is critically important that any new proposals are only entered into after thorough consultation with Indigenous people themselves. As a recent Plan International study concludes:

It is important to recognise that birth registration is only one component of a governance and legal system that could protect and

promote children's rights. Birth registration should not be implemented in isolation. Any birth registration initiatives should be integrated with other measures to fulfil children's rights.

It is hoped that these preliminary recommendations act as a stimulus for government agencies, policy makers, civil society groups and communities themselves to develop appropriate reforms that remove barriers and facilitate access to birth registration.⁶ It is only by engaging all the stakeholders in the provision and access to birth registration and birth certificates that we can achieve truly universal birth registration in Australia.

Endnotes

- 1 See Article 24 of the *International Covenant on Civil and Political Rights* and Article 7 of the *Convention on the Rights of the Child*.
- 2 Victorian Law Reform Commission, *Birth registration and birth certificates report*, 2013, para 7.88.
- 3 *Ibid*, Recommendation 26.
- 4 See <http://www.vitalcertificates.ca/birth-certificate>
- 5 ABS, 1362.7 — *Regional statistics, Northern Territory, March 2011* and see *Births, Australia, 2009* (cat. no. 3301.0), retrieved from <http://www.abs.gov.au/ausstats/abs@.nsf/Products/2CB1D3443C748060CA2577CF000DF099?opendocument>
- 6 More comprehensive findings and recommendations are forthcoming in P Gerber and M Castan, *Indigenous rights: birth registration and recognition*, Edward Elgar, UK, 2016.
- 7 K Apland et al., *Birth registration and children's rights: A complex story*, Plan International, 2015, p. 4.