



Malawi – Researched and compiled by the Refugee Documentation Centre of Ireland on 14 April 2016

Please establish both the law in relation to the registration of births in Malawi during the years 2009 and 2014 with specific reference to the procedure in relation to the registration of the father's particulars in the Birth Report in the case of illegitimate births.

Under what Act were births registered in 2009 and what was the proscribed format of a Birth Report under the act at that time?

In the case of an illegitimate birth was it required that the father's signature should appear on the face of the Birth Report?

Within what period from birth was it required that births should be registered in October 2009?

Was this true as of October 2009 and can you supply any further information about how births of illegitimate children were to be reported at that time?

What was the compulsory registration period for births in Malawi as of October 2009?

Please obtain a copy of the Act in question as noted above in force in 2009.

What was the commencement date of that - 2009 - Act?

An October 2009 Voice of America news report states:

*"The country is still using the Birth and Deaths Act of 1904, which does not require births – or deaths – to be officially recorded. Until now, it has been up to the parent or guardian to travel to Malawi's commercial capital, Blantyre, to register the birth of a child. They also have to pay the administrative costs of issuing a birth certificate. With high levels of poverty, most Malawians can not afford to travel to the registration offices, or pay for the birth certificates."
(Voice of America (27 October 2009) *Malawi Introduces Compulsory Birth Registration to Curb Child Labor and Trafficking*)*

A report from UNICEF, in a paragraph headed "Compulsory birth registration" states:

*"The National Registration Act was passed in 2009, completing five years of efforts to review its legal framework." (UNICEF (30 March 2012) *In Malawi, the launch of universal birth registration guarantees protections for children*)*

Referring to the 1904 Births and Deaths Act an IRIN News report states:

“A senior official of the national registration bureau in the president's office, Lawrence Hussein, told local media in March 2008 that ‘Malawian children have no document to show when they were born. We can hardly tell who is a child.’ The colonial-era 1904 Birth and Deaths Act, which does not require citizens to be registered at birth, nor deaths to be reported to the authorities, is still in force.” (IRIN News (3 June 2008) *Child labour encouraged by poor record keeping*)

This report refers to the new registration system as follows:

“A registration system has been put in place by the national statistics office and sponsored by the UN Children's Fund (UNICEF), so that birth certificates can be introduced in nine of Malawi's 28 districts as soon as the legislation is passed, but a source close to the process told IRIN that unless the bill is ratified, little progress could be made in implementing this system. At present, the burden of registration rests on the parent or guardian to travel to Blantyre, Malawi's second city, to register the birth of a child if they so wish; they also have to pay the administrative costs of issuing a birth certificate.” (ibid)

An article from the Olodo Nation website is illustrated with several photographs supposedly showing Malawians holding birth certificates. (Olodo Nation (21 October 2014) *Every Child Counts ~ Jovago Partners With UNICEF To Support Birth Registration*)

The US Department of State Country report on Malawi for 2015, in a section titled “Children” (paragraph headed “Birth Registration”), states:

“Citizenship may be derived from birth within the country or abroad to at least one Malawian parent ‘of African race.’ According to the most recent population census (2008), 16.6 percent of children under age 18 had a birth certificate. Compulsory universal birth registration, enacted in 2012, became effective in August.” (US Department of State (13 April 2016) *2015 Country Reports on Human Rights Practices – Malawi*, p.18)

See also article posted to the Face of Malawi website which states:

“The 1st August, 2015 commencement date means that the Department of the Registrar General which has been the issuing authority of Birth and Death certificates under the Birth and Death Registration Act of 1904 has stopped the issuance of these certificates. Nevertheless, all certificates issued so far by the Registrar General, are valid under the new Act.” (Face of Malawi (6 August 2015) *Govt Starts Issuing Universal, Compulsory Birth & Death Registration In Three Districts*)

The 1904 Births and Deaths Registration Act, in a section titled “[Ch2401s6]6. Illegitimate child”, states:

“No person shall be bound as father to register the birth of an illegitimate child, and no person shall be entered in the register as the father of such child except at his own request, and upon his acknowledging himself to be the

father of the child and signing, or affixing his mark to the birth report as such.”
(Malawi Legal Information Institute (1 July 1904) *Births and Deaths Registration Act*)

A section of this act titled “Duty to register births” states:

“In the case of every child born alive after the commencement of this Act, the registration of whose birth is compulsory, it shall be the duty of the father and the mother, and in default of the father and the mother, of the occupier of the house in which to his knowledge such child is born, and of each person present at the birth, and of the person having charge of such child, to register the birth within three months of the birth.” (ibid)

Additional information on this topic was not found among sources available to the Research and Information Unit.

This response was prepared after researching publicly accessible information currently available to the Research and Information Unit within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

References:

Face of Malawi (6 August 2015) *Govt Starts Issuing Universal, Compulsory Birth & Death Registration In Three Districts*
<http://www.faceofmalawi.com/2015/08/govt-starts-issuing-universal-compulsory-birth-death-registration-in-three-districts/>
(Accessed 13 April 2016)

IRIN News (3 June 2008) *Child labour encouraged by poor record keeping*
<http://www.irinnews.org/news/2008/06/03/child-labour-encouraged-poor-record-keeping>
(Accessed 13 April 2016)

Malawi Legal Information Institute (1 July 1904) *Births and Deaths Registration Act*
<http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/94722/111243/F-2095073062/MWI94722.pdf>
(Accessed 13 April 2016)

Olodo Nation (21 October 2014) *Every Child Counts ~ Jovago Partners With UNICEF To Support Birth Registration*
<http://olodonation.com/2014/10/every-child-counts-jovago-partners-with-unicef-to-support-birth-registration/>
(Accessed 14 April 2016)

UNICEF (30 March 2012) *In Malawi, the launch of universal birth registration guarantees protections for children*
http://www.unicef.org/protection/malawi_62129.html
(Accessed 13 April 2016)

US Department of State (13 April 2016) *2015 Country Reports on Human Rights Practices – Malawi*

<http://www.state.gov/documents/organization/252913.pdf>

(Accessed 14 April 2016)

Voice of America (27 October 2009) *Malawi Introduces Compulsory Birth Registration to Curb Child Labor and Trafficking*

<http://www.voanews.com/content/a-13-2008-07-29-voa61-66757132/563205.html>

(Accessed 13 April 2016)

Sources Consulted

All Africa

Electronic Immigration Network

European Country of Origin Information Network

Google

IRIN

Law Library of Congress

Lexis Nexis

Malawi Legal Information Institute

Refugee Documentation Centre Query Database

UNHCR Refworld

UNICEF

US Department of State