

The Socio-Legal Implications of Birth Registration of a Child in Cameroon: A Concerted Initiative

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Abstract

Children represent proof of manhood or womanhood in the society. The right of the child to birth registration is a prerequisite obligation any parents owe to the child after birth. Birth registration of a child is a fundamental right recognized under international law as well as domestic legislations in most civilized nations under pain of sanctions for non-compliance. The paper took an eagle eye view on the child rights to birth registration in the Cameroonian legal system. The paper also examines the need for birth registration and the socio-legal implications for non registration of child birth in Cameroon and concludes with some robust recommendations for policy formulation which it effectively implemented, will go a mile stone to guarantee the protection of birth registration of a child in Cameroon.

Keywords: Child Birth, Socio-legal, Registration, Implications, Civil Status, Cameroon.

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INTRODUCTION

In most African traditional societies not leaving out Cameroon, the attitude of the family, especially parents towards children, is warm, exciting, positive and full of expectation for the future of the child [1]. The regard for children is both physical and spiritual. In the physical realm, children represent proof of manhood or womanhood. In terms of the spiritual, they are gifts from God [2] which should not be rejected. The belief is further reflected in the names given to children. For example, in some cultures, a child may be named “*afanui*” or “*afumbom*” (A name in the Kom tribe of the North West Region of Cameroon) which means God’s gift. Also, in Mankon village of the North West Region of Cameroon, unlike in most traditional communities in the country, the birth of twins is also given great consideration and respect [3]. The male could be named “*ndonue*” while the female is named “*binnue*” [4]. Children are sometimes also regarded as the re-incarnation of dead relatives or loved ones. This is also reflected in the names given to the child. A family lacking the blessing of a gift of a child is viewed with pity, distrust or suspicion depending on the circumstances, while the stability of a marriage without children is usually threatened. The childless woman may be pitied, despised, or distrusted or in extreme cases branded a witch, lacking the compassionate heart to rear children [1]. From birth, the parents have the primary responsibility for the upbringing and development of the child [5]. They have

a duty to ensure that the best interests of the child are their basic concern at all times [6]. Suffice it to say that one of the parental responsibilities towards the child is to ensure that the child is registered at birth. This duty is reflected in Article 5 of the United Nations Convention on the Rights of the Child of 1990 which stipulates that:

State Parties shall respect the responsibilities, rights, and duties of parents or, where applicable, the members of the extended family or community as provided for by the local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention [7].

In addition, the Preamble of the United Nation Convention on the Rights of the Child stipulates that:

“The nation shall protect and promote the family which is the natural foundation of the human rights.”

The international covenant on economic, social and cultural rights also states that in order to safeguard this right, it is equally the responsibility of the State to ensure the registration of the child

at birth as dictated by the culture of his parents or guardian without any discrimination of any kind. Also, *the State Parties to the present Covenant undertake to guarantee the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, color, sex, social origin, birth or other status.*” Cameroon ratified the Covenant on 27 June 1984 [8]. Despite the importance of this right as provided by the various international human rights instruments [9] to ensure that children are registered at birth, it is regrettable that millions of children worldwide including Cameroon continue to live without the document which confirms their legal existence and the consequences are telling on their identity, scholarization and human rights in general. It was reported that:

« a la communautaire urbaine de Bertoua, une enquête menée révélée que 20% d'enfants vulnérable n'ont pas d'actes de naissance. Centre 45.6%; North West 44.67%; East 48.35%; Rural Zones 30%; Urban Zones 49% » [10].

Statistics indicate that 51 million children in developing countries do not have birth certificates [11]. It is further revealed that four out of ten babies delivered worldwide were not registered with the civil authorities. According to the UN News Centre of 11 December 2013, UNICEF Report reveals that twenty three million children under the age of five had not had their birth registered, and lowest rate of birth registration is in South Africa and Sub Saharan Africa. It is further noted that twenty million children in Sub- Saharan Africa do not have a birth certificate [11]. The African Committee of Experts on the Rights and Welfare of the Child, General Comments No. 2 on Article 6 on the right to a name, registration at birth and acquire a nationality adopted by the Committee at its Twentieth Third Ordinary Session of 16 April 2014 also noted that millions of children go unregistered every year [12]. That means millions of young children are living life without birth certificate. In Cameroon, 30% of children in the rural area are not registered at birth while 49% in the urban areas are without birth certificates [13]. For instance, in the North West Region of Cameroon alone 44.67% of children are not registered at birth. It is reported that the Far North Region of Cameroon have the lowest rates of registered births at 38.2%. Also, some 98 % of the Baka pygmies of Upper Nyong Division of Cameroon numbering 30.000 do not register their children at birth [13].

This paper seeks to explore the right to birth registration of a child in Cameroon and the socio-legal importance of such exercise, as well as

the consequences of non- registration and also table the way forward.

THE CONCEPTUALISATION OF A CHILD AND THE MEANING OF BIRTH REGISTRATION IN CAMEROON

This Section of the paper examines the concept of a child and the meaning of birth registration in Cameroon.

The Concept of a Child

Suffice it to state that the registration at birth of a child is a fundamental right recognized under international law as well as under the domestic legislation of most nations including Cameroon [14]. The question then is who is a child? In the case of *Re Carlton* [15], Cohen J said the meaning of the word “child” must, in every case depends on the context in which it appears. However, the New Lexicon Webster’s Dictionary of English language defines a child as simply a boy or a girl at any age between infancy and adolescent; a new born baby [16]. The Macmillan Dictionary on the other hand defines a child as “someone’s son or daughter of any age [17].” A child is also considered as a descriptive terminology for a natural person who is an offspring of another either by birth or by adoption and may also represent any human being from the moment of his birth (in alive state) until the attainment of age of maturity [1]. Outside the dictionary definition of a child, there is also the customary definition of a child. The customary definition varies from ethnic group to ethnic due to lack of a uniform system of customary law in Africa and in Cameroon in particular [18]. In our African traditional milieu, a child is defined as someone still leaving under the father’s roof or who has not been circumcised [19]. In some ethnic groups, a boy remains a child until initiated into an age grade society or until he is old enough to contribute financially to community development while in others, childhood terminates at puberty. A child include “*all persons below the age of puberty and males over the age of puberty but not yet old enough to be assessed for tax, and any female over the age of puberty if she is unmarried and if in the opinion of the court she is below the age of 16 years* [20].” The above stated definitions though give an insight as to who children are under customary law, but hardly address the question of who is a child under the law.

By far, the most comprehensive definition of a child is proffered by the United Nations Convention on the Rights of the Child Adopted on 20 November 1990. Article 1 defines a child as follows; “for the purpose of the present convention, a child means every human being below the age of 18, unless under the applicable law to the child the age of majority is attained earlier. The African Charter on the Rights and Welfare of the Child defines a child as “any person below the age of 18. By virtue of Article 2 above, 18 years remains the

age beneath which persons are entitled to special protection as a child. This definition tie squarely with the definition proffered by the draft Child Protection Code and Code of Persons and Family of Cameroon [21] to wit: “a child is defined as every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier.” In addition, Section 2 of Law No.2005/015 of 29 December 2005 relating to the Fight against Child Trafficking and Slavery is more explicit in the definition of a child in Cameroon within the context of international law. It defines a child as “any person of either sex aged below 18 years [22].”

The Meaning of Birth Registration

Birth registration simply put is the act of recording the birth of a child by an administrative authority. According to Nicolas Sharp [23] “birth registration is the process by which a child’s birth is recorded in the civil register by the applicable government authority. It provides the first legal recognition of the child and is generally required for the child to obtain a birth certificate.” A more descriptive legal definition of birth registration is the one proffered in the case of *Institute for Human Rights and Development in Africa and Open Society of Justice Initiative (on Behalf of Children of Nubian Descent) vs. Government of Kenya* simply referred as “The Kenyan Nubian Children’s Case” [24] as follows:

The official recording of the birth of a child by some administrative level of the State and coordinated by a particular branch of government. It is a permanent and official record of a child’s existence. Ideally, it is part of an effective civil registration system that acknowledges the existence of the person before the law establishes the child’s family ties and tracks the major events of an individual life [24].

Against this backdrop, there is the need to analyze the place of birth registration of a child in the international and national legislations. This will serve as a fundamental basis as to the need for birth registration of a child.

Birth Registration of a Child under International Law

As aforesaid, birth registration of a child is a fundamental right recognized under international law as well as the domestic legislation in most civilized nations as seen in Nigeria where the birth of every child shall be registered in accordance with the provision of the Birth and Death registration Act [25].The child’s right to birth registration is enshrined in several rights treaties. The first international human rights instrument to recognize the right of a child to birth registration is the International Covenant on Civil and Political Rights (ICCPR) [26]. To this effect, Article 24(3) of ICCPR

provides that “every child shall be registered immediately after birth and shall have a name.” This right is also recognized under the United Nations Convention on the Rights of the Child [27]. To this effect, Article 7 of the United Nations Convention on the Rights of the Child provides:

The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality, and, as far as possible, the right to know and be cared for by his or her parents. State Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless [28].

The United Nations Guidelines for Children in Criminal Justice system [29] otherwise known as “*The Vienna Guidelines*” provide that Member States should ensure the effectiveness of their birth registration programs [29].

Efforts to ensure the right to registration of the child at birth at the regional level have also been recognized. Article 6 (2) of the African Charter on the Rights and Welfare of the Child of 1990 provides that “every child shall be registered immediately after birth.” Article 6(2) uses the term “everyone” which means, it must be afforded to all children without discrimination. It is for this reason that the right to birth registration extends to children with disabilities and as well as children of imprisoned mothers within the meaning of Article 24 (2) of the United Nations Convention on the Rights of Persons with Disabilities [30] and Article 30 of the African Charter on the Rights and Welfare of the Child as read with Article 5 of the African Charter on Human and People’s Rights respectively. Note that, the right to birth registration also extends to children born to foreigners, asylum seekers, refugees and undocumented immigrants in the State territory.

In 2016, the African Committee of Experts on the Rights and Welfare of the Child (ACRWC) established a 25 year agenda namely, “*Agenda 2040*.” The main objective of the agenda is to restore the dignity of the African child through assessing the achievements and challenges faced. The Agenda sets out ten solid aspirations with deep insight on specific issues to be achieved by the year 2040. Aspiration 1 of Agenda 2040 specifically addresses the right to birth registration of the child to wit: “every child’s birth and other vital statistics are required.” During the 32nd Ordinary Session of the ACRWC that ended on 12

February 2019, Aspiration 1 above cited was re-echoed in the resolutions arrived at the Summit.

Birth Registration of a Child under the Cameroonian Legal System

The articulation of the right to birth registration in the above mentioned treaties served to highlight the universal standards, which all signatories became obliged to incorporate in their national laws and policies. As a follow up, Article 8 of the Convention on the Rights of the Child stipulates that “*State Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field.*” Cameroon is a signatory to the above mentioned convention and he is duty bound to ensure the domestic implementation of the right to birth registration of the child in all the nooks and crannies of the country. To this effect, the Cameroon Constitution provides that “*duly approved treaties shall following publication override national laws [31].*” In Cameroon, the main domestic legislation governing birth registration in the country is the Civil Status Registration Ordinance [32]. Also Article 1 of the Ordinance provides that “*this Ordinance shall govern the legal registration of births in the Republic of Cameroon.*” The Ordinance also governed marriages and death registrations in Cameroon. In Cameroon, unlike in most other civil status registration systems, birth registration is a process that starts as soon as the child is born. It begins with the issuance and notification of a birth card by the midwife or hospital and thereafter a declaration by the parent to the civil status registrar in order to obtain a birth certificate. Article 30 of the Civil Status Registration Ordinance stipulates that “*a birth shall be declared to the civil status registrar of the place of birth within 60 days following such birth.*” In addition, Article 31 stipulates that “*where a child is born in a hospital or other medical institution, the head of the hospital or, in his absence, the doctor or any person who attended the birth, shall be bound to declare the birth of the child within 30 days of such birth.*” A good example was seen in the decision In *Arête No 96/L du 24 Mars 1970 Affaire Procureur General de la Cour Supreme c/ Haram Betare et Betare Doko*, the court had to decide whether a birth certificate delivered out of statutory time limit provided by law was a nullity. The brief facts are that:

“*Cour de Garoua en date du 30 Mai 1969 annule l’Acte de Naissance No.47 concernant le jeune Haram Betare, dresse le 29 Juin 1966 par le Centre d’Etat Civil Beka (Tibati), au motif que ledit acte avait été dresse hors le délai de (15) quinze jours exige par l’article 11.*”

The Supreme Court held that:

«*Casse et annule l’Arrêt No.22/1 du 30 Mai 1969 rendu par la Cour d’Appel de Garoua au motif que l’article 11 de l’arrête du 16 Mars*

1935 prévoit la déclaration dan les 15 jours de la naissance intervenue, il n’assortit point cette rescription de la sanction de la nullité».

In other words, the law makes it incumbent on the father and mother or head of hospital where the birth took place or person having knowledge of the event to declare the birth of the child [33]. Worthy of note is the fact that the capacity of declarant must be stated on the certificate [34].

However, according to UNICEF report, only 61% of children in Cameroon are registered within the legal time frame at birth. The situation is even worse in northern and eastern parts of the country where nine in 10 births are not registered within the requisite time frame. Any registration after 60 days of birth is considered as late registration and the procedure is more complex and lengthy with incidental costs involved and at such, act as deterrents to the registration of children in Cameroon. The late birth registration process of the child in Cameroon is commenced in the High Court upon filing of an application attested by two persons who witnessed the birth for a court declaratory judgment to that effect. For instance, in some High Courts, one of the requirements is a certificate of age duly issued by a medical doctor. Children above 15 years need to obtain a waiver from the Legal Department, thus making the process more cumbersome.

Cameroonians living abroad where Cameroon has a diplomatic or consular mission are bound to have the birth of the child registered [35]. Also, foreigners [36] or refugees, residing in Cameroon are bound to register or transcribe into the civil status register opened in their area of residence, all births taking place in Cameroon. Following Law No.2011/011 of 6 May 2011 to amend and supplement certain provisions of Law No.81/002 of 29 June 1981 on the Organization of the Civil Status Ordinance, government has improved the process of the establishment of birth certificates for refugee children and systematic registration of newborn babies. It should be noted that between 2010/2013 6,000 birth certificates through the procedure of supplementary judgment were established for refugee children in the East, Adamawa, Centre and Littoral Regions of Cameroon. The government also established a mechanism for verification and authentication of civil status documents drawn for refugees, with the support from UNHCR [37].

THE ROLE OF THE CIVIL STATUS REGISTRAR IN BIRTH REGISTRATION OF A CHILD IN CAMEROON

The next question that we shall examine under this section is who is responsible for registration of the birth of a child in Cameroon? As aforesaid, the Civil Status Registration Center is the main structure charged with the registration of births in Cameroon. They are

over 2300 primary and secondary civil status registration centers in Cameroon: 419 main Civil Status Centers divided as follows; 45 within diplomatic missions, 14 in Urban Councils and 360 in Regional and Local communities. In 2014, 42 civil centers were again set up [38]. The law forbids civil status registrars from drawing up birth certificates concerning themselves or members of their families and if that must be done, it must be done by an assistant as per the provision of Article 20 of the Ordinance. Worthy of note is the fact that any contravention of this article will be declare null and void.

The main official charged with the registration of births in Cameroon is known as the Civil Status Registrar. The Ordinance does not defined the term "Civil Status Registrar" but quickly proceeds to offer as descriptive meaning of the Civil Status Registrar to include Government Delegates, Mayors and their deputies, Heads of Diplomatic and Consular Missions of Cameroon abroad or other such person as may be designated by Minister of Territorial Administration based on opinion of Senior Divisional Officer [39]. Before assuming duties, the Civil Status Registrar must be administered to oath before the competent Court of First Instance in the locality where they are found with the exception of Head of Diplomatic or Consular Missions whose oath are taken orally or in writing before the Court of First Instance in Yaoundé. The oath is stipulated as follows:

"Do you undertake on your honor to loyally and faithfully perform in accordance with the law, the duties of civil status registrar assigned to you by virtue of your appointment"?[40] While raising his or her right hand 'I do so swear."

The Civil Status Registrar in the discharge of his functions is assisted by one or more Secretaries appointed by the Minister of Territorial Administration who must also be administered to oath before the Court of First Instance [41] of the area. However, in the event of war or serious disaster, the President of the Republic may by decree appoint other Civil Status Registrars [42]. The legislation in force obliges the Civil Status Registrar and the Secretary to jointly sign the birth certificate before it is issued to the declarant, failure to do so risk pain of nullity as in Judgment No 280/c du 20 March 1979 cancelling birth certificate (act) due to the absence of signature of the Civil Status Registrar [43]. In order to guarantee the authenticity of the birth certificate as a very important child document, the certificate must be recorded serially in the register, without any blanks, erasures or insertion. Any alteration or forgery of civil status documents, and any entry of such documents, other than in the registers intended therefore, may, without prejudice to the penalties provided for in criminal law, lead to claims for damages by aggrieved parties [44]. No abbreviation is allowed [45]. All dates must be written in figures and in words

[46]. It shall comprise of three counterfoils numbered and initial by the President of the Court [47]. Worthy of note is that entries in the birth certificate shall be free of charge [48] even though in practice it is not free as some Civil Status Registrar does collect 500francs for what they termed "tree planting". However, the issuance of birth certificate is subject to payment of communal stamp duty of 600francs. Section 104 of the Finance Law of the Republic of Cameroon for Financial Year 2017 stipulates that:

"The council stamp duty shall be fixed at CFA600 for the council budget. It shall apply to a document with a format less than or equal to an A4 size page."

In case of loss or destruction the birth certificate can be reconstituted [49]. Reconstitution can also occur where nationals born or residing abroad in countries are unable to register the birth of their children due to the absence of a Cameroon Civil Status Registry. In such a situation, the law has preview that upon their return to Cameroon they are given a period of twelve months to declare the birth of their children at Civil Status Registry of their actual place of resident in Cameroon upon presentation of supporting documents [50]. In case of error, the birth certificate can be rectified [51]. It is worthy to note that any unapproved rectification shall be null and void [52]. The competent court having jurisdiction to rectify or order for the reconstitution of birth certificate is the High Court. This is contained in Section 18 of the Law on Judicial Organization in the country [53].

THE ROLE OF NON- GOVERNMENTAL ORGANIZATION IN THE BIRTH REGISTRATION OF A CHILD IN CAMEROON: THE CASE OF PLAN INTERNATIONAL CAMEROON

There have been clarion calls for non-governmental organization involved in the promotion and protection of children rights to extend their collaboration to State Parties in the implementation of the law, policies, programs, strategies aimed at the realization to the right of birth registration. One of such Non-governmental Organization is Plan International. Plan International was founded in 1937 during the Spanish civil war by a British Journalist John Langdon Davies and Aid Worker, Eric Muggerridge. The Organization was founded with the mission of protecting and promoting the rights of children. Today, Plan International works in over 70 countries across the world including Cameroon to advance children's rights [54]. It is the world's largest a child centered international development non-governmental organization working in many developing countries in the world including Cameroon. Since 1996, Plan International has worked with over 1200 communities across the seven regions in Cameroon. Plan International has been playing a very important role as far birth registration of children in general are

concerned. It started promoting birth registration in 1998 [54]. Among other things, Plan International has help to positively change the behaviors of these communities relating to birth registration as well as providing training to everyone involved in birth registration. For instance, Plan International Cameroon joined UNICEF to provide funding and technical support to the ministry of social affairs to run a birth registration stakeholders' workshop in Bandjoun, west region. Participants included government organizations such as social services, rural animation units, primary education inspectors, magistrates, traditional leaders, civil registrars and mayors. After sharing their experiences and learning more about the legal aspects of birth registration, they developed a National Action Plan to coordinate future birth registration interventions from 2004-2007 [23]. It should be recalled that Plan International was invited by the NGO Committee on UNICEF to support the unregistered children project in Asia. Plan International worked on birth registration subsequently extended it to Africa including Cameroon and became the focus of plan international global campaign in 2005 dubbed "*universal birth registration* [23]."

Plan International Cameroon has embarked on a vigorous campaign dubbed "*Operation counts every child*" aimed at ensuring that every child is registered at birth. In Cameroon, they worked in close partnership with the Ministry of Social Affairs, Local Councils and other support groups in the country in order to facilitate the process of birth registration in the country. For instance, in 2003, Plan International Cameroon launched the "*Baka Rights and Dignity Project*" in the East Region of the country, and in the year 2010 and 2011 respectively it helped 12,000 Cameroonian children to receive their birth certificates. Furthermore, in June 2012, Plan International Cameroon launched a campaign called "*Operation 20.000 birth certificates*" throughout its six programs units in the country [55].

THE SOCIO-LEGAL IMPLICATIONS OF BIRTH REGISTRATION AND CERTIFICATE OF A CHILD IN CAMEROON

This Section of the paper examines the socio-legal implications of birth registration and certificate of a child under the Cameroonian legal system.

Socio-legal Implications of Birth Registration of a Child

The legal effects of having a birth certificate cannot be over emphasized. The legal effects or advantages of birth registration in Cameroon are:

Proof of Birth or Identity of the Child

As aforesaid, birth registration is the "*first right*" of every child [56]. In fact, it provides the basis for so many rights of the child such as proof of birth of the child. According to Nicolas Sharp:

"A birth certificate provides a child with permanent proof of identity in a turbulent world. Without a birth certificate, children may have difficulty proving to officials they are eligible for assistance at times of personal and national crises [23]."

The President of the National Commission on Human Rights of Cameroon, Dr Divine Chemuta Banda affirmed this right when he said that:

"The civil status registration is the base of the enjoyment of human rights. It is important that each child should be identified at birth [57]."

This fact was corroborated by Professor François Anoukaha [58] when he says "*L'acte de naissance constitué pour une personne physique la preuve de son existence juridique.*" » In the upshot, the birth certificate is an affirmation of child legal identity. In summing up the importance of this right, The African Committee of Experts on the Rights and Welfare of the Child observes that birth registration is crucial not only in the establishment of the identity and parental affiliation of a child but also preserve his or her identity against illegal changes, such as names or falsification of family ties, which are easier to achieve when the child is not registered and thus lack proof of identity [12]. The Committee also held the views that the right to birth registration constitutes the pillar of a person's identity [12].

Right to Good Name

There are details in the birth certificate that can be applied to protect children and one of such legal benefit is the right to a good name. The African Charter on the Rights and Welfare of the Child stipulates that State Parties should take appropriate measures to ensure that a child name does not undermine the best interest of the child in his or her future life. For example, names which under national laws, customs and traditions found to fall in any of the following categories should not be permissible: names that are offensive or obscene references, could incite violence, are typographically unconventional; are bizarre or ridiculous, might defraud or mislead the public, might confuse the public, might interfere with rights of others or could be contrary to public policy. This is in consonance with the provisions of other international human rights instruments which are all unanimous of the fact that every child should be named after birth. To this effect, Article 6(1) of the African Charter stipulates that:

"Every child shall have the right from his birth to a name."

In order to give effect to the right of name, the State has the obligation to regulate the attribution of names. It should be noted that the obligation to give a child a name lies with his or her parents or guardians. In Africa, a name has a number of functions in every

society. Name is used as a means of identification, expression and communication, distinguishes one person from another [23]. Naming of a child is a very passage rite in most African communities including Cameroon as stated in the introductory part of this work. However, naming practices which are not conducive to the best interest of the child must be avoided. In Cameroon, Article 34 of the Civil Status Registration Ordinance stipulates that every birth certificate must contain the names, sex, age, date and place of birth of child. Article 35(1) further stipulates that the full name of the child shall be freely chosen by his parents. It should be noted that it is just not any type of name. The name must indicate a religious or a moral understanding and not the type which will cause the child embarrassment when he grows up. Article 36 of the Civil Status Registration Ordinance provides that the following may in particular be chosen as first names in birth certificates; names in use in the tradition, names of religious inspiration, for example, Emmanuel, God love, Mary, Abraham, Isaac etc; names of historical figures, for example, Mandela, Martin Luther-King, Lumumba etc.

The right to a good name of a child is also recognized under Islam. Under Islamic law, it is mandatory for a father to choose good name for his or her child. This is in line with a Prophetic Tradition that says:

“You will be called on the day of judgment by your names, so choose fine names [59].”

Despite the existence of the right to a good name, some parents opt to give their children names which are not known to Christianity and Islam and meaningless to the child. Unlike the Christian counterpart, it is advised that Muslims should give their children fine names of the prophets or the (*sahabats*) companions of Holy Prophet (PBUTH) like Abubakar, Umar, Uthman, Aliyu to mention but few. Article 1(3) of the African Charter on the Rights and Welfare of the Child cautions that:

“Any custom, tradition or religious practice that is inconsistent with the rights, duties and obligations contained in the present charter shall to the extent of such inconsistency be discouraged [60].”

However, it is important to note that where cultural interest's conflict with the best interest of the child, the later shall prevail.

Proof of Paternity of the Child

Another benefit of the birth certificate is the proof of the paternity of the child. A birth certificate is the first link a citizen has with its government. It shows where the child was born and who its parents are. That is the more reason why the birth certificates must contain the names, surnames, age, nationality, profession, domicile or residence of the father and

mother [61]. However, in Cameroon the law provides that if father is unknown, the column in the birth certificate must be left blank. This is more so because the law forbids the indication of the words “*father unknown*” on the birth certificate [62]. However, Section 341 of the Cameroon Penal Code titled “*cloud of parentage*” punishes any person whose conduct has the result of depriving a child of the evidence of his true parentage with imprisonment for from five to ten years. It is also submitted that proof of parental ties enhance the child rights to inherit parental property.

Proof of Nationality of the Child

In as much as the birth certificate is the basis of so many rights for the child, these rights are interrelated, interdependent and indivisible. The right to identity is fundamental in realizing many other rights. It is essential to establishing a child's nationality and citizenship. Article 6(3) of the African Charter of the Rights and Welfare of the Child stipulates that every child has the right to acquire a nationality [63]. In consonance with the provisions of this human rights instrument, Article 1 of the Nationality Code of Cameroon recognizes the principle of “*jus sanguinis*”(right of blood) in the legal system. It should be noted that a copy of birth registration is an essential requirement for those applying for naturalization and restoration [64]. Article 6 provides that Cameroon nationality shall attach to legitimate children born of Cameroon parents as well as illegitimate children whose natural parents are both Cameroonian [65]. In addition, Article 10 provides that a new born child found in Cameroon is presumed *prima facie* to have been born in Cameroon. A child having Cameroon nationality shall be deemed to have been Cameroonian from birth even if the conditions required by law for attachment of this nationality are not satisfied [66]. However, according to 2007 Report on the Cameroon Civil Status System conducted by *Institute de Formation et de Recherche Demographiques* abbreviated (IFORD), it was established that Cameroon faces a real problem of not fulfilling every child's right to a name and nationality. However, some of these challenges have been overcome even though dual nationality remains a topical issue in Cameroon.

Proof of Age and Immunity from Criminal Prosecution

Birth certificate acts as a preventive measure or protection of a child under the juvenile justice system. The principle of *doli incapax* (incapable of committing crime) provided under Article 40 of the Convention on the Rights of the Child and Article 17 of African Charter on the Rights and Welfare of the Child require State Parties to establish a minimum age below which children shall be presumed not to have the capacity to infringe the penal law. This requirement is satisfied in Cameroon. Section 80(1) of the Cameroon Penal Code stipulates that no criminal responsibility shall arise from the act or omission of a person aged

less than ten years. For example, in the case of BA/337C/79 *The People vs. Ngiewuh & Anor*, Justice Epuli (as then he was) dismissed the charge against the accused persons by virtue of Section 80(1) of the Cameroon Penal Code for lack of criminal responsibility since both accused were children of eight and eight and half years respectively.

In the actual realization of this right, proof of age of the juvenile offender is very important. Hence, birth certificate is the primary documentary proof under international law that a child has attained the minimum age for criminal responsibility. On the other hand, Section 80(4) of the Penal Code provides that a person aged 18 years or over shall be responsible as an adult. To invoke or benefit from this principle in the Cameroonian criminal justice system, the age of the accused must be determined and one of best method is by birth certificate. For instance in the decision CANWR/3CC/2008 in the case of Ouseni Bello vs. The People, the North West Court of Appeal dismissed the appellant's appeal that was based on the determination of his age and held that he was not a minor. Section 34 of the CRC also stipulates that State Parties should undertake measures to protect the child from all forms of sexual exploitation and sexual abuse. In the same point of view, Section 701(1) of the Cameroon Criminal Procedure Code provides that the Examining Magistrate shall carry out all measures of investigation necessary to reveal the personality of the child.

Furthermore, Section 703(1) of the Cameroon Criminal Procedure Code stipulates that in the absence of a birth certificate of the infant, his or her age shall be determined by a medical certificate of apparent age. Where only the year of birth of a person is known, he or she shall be presumed to have been born on the 31st day of December of that year. It should be noted that even when found criminally responsible, proof of age still serves to ensure a lower sentence and special protection measures of the child while in prison. For example, Article 37 of the CRC to which Cameroon is a signatory provides that no imposition of death penalty or life imprisonment for offences committed by persons below 18 years of age and separate quarters for minors in prison etc. Despite this legal immunity aimed at protecting the child against criminal prosecution in Cameroon, Justice Afong Ann regrets to note that due to the absence of birth certificates for many children in conflict with the law, they are being prosecuted before the courts as adults [67].

Protection against Sexual Exploitation

Children without birth certificates are also vulnerable to such hazards as sexual trafficking or harassment [68]. The Cameroon Penal Code clearly outlines various types of sexual abuses that are criminal offences specifically relevant to the age of the victim. Hence, proof of age by birth certificate can be relevant

where children are alleged victims especially sexual abuses [69].

Scholarization Benefits of a Child

There is no doubt that education is a central pivot in any effort to improve on the right of the child. The education of a child begins at birth. It is for this reason that the right to education is qualified to be the fundamental right of the child. The right of the child to education is embodied in so many international human rights instruments as well as the domestic laws in Cameroon. To begin with, Article 26 of Convention on the Rights of the Child simply provides that:

"State Parties recognized the right of the child to education...."

Article 11 of African Charter on the Rights and Welfare of the Child stipulates that:

"Every child has the right to education [70]".

In addition, Aspiration 6 of Agenda 2040 provides *'every child benefits fully from quality education.'* At the domestic or national level, The Preamble of the Constitution of Cameroon provides that:

"The State ensures the child right to education [71]".

Furthermore, the right of the child to education is also recognized under Muslim law [72]. However, the lack of birth certificate can be a barrier to the attainment of the right to school attendance. In Cameroon, birth certificates are a basic requirement for enrollment in primary school in the country.

In other words, the a child without a birth certificate will be unable to access education because a certificate is required for enrollment and even when admitted, he will not be eligible to sit for public exams such as the Common Entrance Examinations and First School Leaving Certificate Exams. However, Plan International Cameroon has been working to ensure that lack of birth certificate does not impede the right to education of vulnerable children especially in the East Region of Cameroon.

Prohibition against Child Marriage, Child Slavery and Child Labor

The child, by virtue of his or her age as attested by the birth certificate is protected against certain societal vices such as hazardous forms of trafficking, forced marriages, slavery [73] and child labour. ILO estimates that around 246 million children are currently involved in child labour worldwide and 179 million are exposed to the worst forms of child labour. However, proof of age by birth registration can be used to stop under aged employment and other worst forms of child labour as enshrined in the Forced Labour Convention No.29, 1930; ILO Minimum Age Convention No.138, 1973; ILO Worst Form of Child

Labour No.182,1999 [74]. However, Section 86(1) of Law No.92/007 of 14 April 1992 Relating to the Cameroon Labour Code stipulates that:

“No child shall be employed in an enterprise even as an apprentice before the age of 14.”

It is argued that in the absence of birth certificate, it is difficult for law enforcement to verify the age of the girl concerned. The lack of birth certificate could lead to abuses [75]. In other words, valuable protection might be foregone in the absence of adequate proof of age of the child victims.

Birth Registration of a Child-Far From Universal Practice in Cameroon

As stated above, the right to birth registration is important to establish the child's identity and nationality and the legal rights that flow there from. Despite the importance of birth registration of a child and State's obligations to that effect the right of children to be registered at birth is observed more in the breach in most African countries not leaving out Cameroon. These worries have been re-echoed by The African Committee of Experts on the Rights and Welfare of the Child when they stated that the right to birth registration is one right that consistently appears not to be fully implemented by the State Parties. The Committee has been concerned about the low rate of birth registration [12]. However, there are several obstacles to birth registration in Cameroon. In Cameroon, birth registration is not a straight forward process. One of such factor impeding the registration of the birth of the child in Cameroon is geographical barriers as aptly stated by Olivier Lamissa as follows:

Les causes de cette situation sont dues aux conditions de vie précaires et vulnérable des peuples autochtones. Les Bororo et les Baka sont des nomades et se déplacent au gré des saisons. Les longues distance entre les localités, l'analphabétisme, l'irresponsabilité parentale et familiale, les huttes, habitations précaires... Mais un problème me subsiste ; celui de la conservation. Ou conserver les actes de naissance chez les Baka ? les huttes ou cabanes son non-sécurisées.....A la moindre étincelle ou intempérie, tout est détruit ! Ces bouts de papiers servent parfois à fumer le tabac [76].

Poor transport links of families leaving remote or rural areas to go to the Civil Status Registry for birth registration is another hindering factor for birth registration in Cameroon. That accounts for why birth registration is higher in urban area than rural areas in Cameroon. For instance, the statistics for birth registration in rural areas of Cameroon is 30% while that in the urban areas is 49%. Other hindering factors

for non-birth registration of the child in Cameroon are: inadequate funding and shortages of essential equipment, lack of awareness of the importance of a birth certificate, high rate of illiteracy as for instance, one child stated that *“I don't have a birth certificate anymore because my father used it like any other paper, to roll a cigarette [76]”*. This scenario seems as if cultural norms and traditional rite passage are more than legal registration [77], poor publicity, and apathy on the part of the public, lack of comprehensive data on births, etc. In highlighting some of the obstacles associated to birth registration in Cameroon, Nicolas Sharp in his work said *“I don't have a birth certificate because my father believes that a piece of paper does not feed a child, that farming activities are more useful for the child than lengthy administrative procedure.”* Still on the issue, the Author further notes on page 30 as follows:

“A child who took part in a Plan Cameroon consultation for a birth registration campaign told the staff ‘none among my seven brothers and sisters have a birth certificate, our parents decided to register our births only when we will be about 10 years old, as they do not want to waste time in declaring births of babies who might die at any moment [23].”

The importance of birth data cannot be over emphasized. According to one writer *“data from birth registration can assist countries to plan their services appropriately and enable them to monitor birth rate trends and identify progress as well as worrying patterns [23].”* Due to the absence of the national birth data, Cameroonians keep on changing their ages for one reason or another. In summing up these obstacles, The United Nations Committee on the Rights of the Child during the examination of Cameroon Combined Third to Fifth Periodic Reports submitted to it said [78]:

The Committee welcomes the revision of the legal and institutional framework to ameliorate the birth registrations process, including the establishment of national civil status office and the extension of the time limit to declare births. However, it is concerned about the low level of birth registration, particularly in rural areas, owing to

(a) Gaps in the law failing to address the impact on the poor and vulnerable families of costs associated with birth registration and the declaration of all births outside hospitals

(b) Low awareness among parents of the importance of birth registration and the time limits for registration and, upon expiration, the difficulties in obtaining a substitute birth certificate through a court order

(c) Inaccessible and under sourced civil registries disproportionately affecting vulnerable populations, including indigenous groups and communities in the Bakassi peninsula.

The Socio-legal Implications of Birth Certificate of a Child

Birth registration marks the legal existence of a child and bring with it enormous potential for the child to enjoy other rights immediately from his or her early childhood. The question therefore is what is a birth certificate? The Civil Status Registration Ordinance in Cameroon does not offer any definition of a birth certificate. However, a birth certificate is defined as “document recording a baby’s birth including such information as name, time, place and parents [79]”. On the other hand, the Black’s Law Dictionary defines it as “a formal document which certifies as to the date and place of one’s birth and a recitation of his or her parentage, an issued by an official in charge of such records. Furnishing of such is often required to prove one age [80]”. Suffice it to state that the birth certificate is the basis of so many rights for a child. According to Nicolas Sharp “it provides permanent, official and visible evidence of a State’s legal recognition of his or her existence as a member of society [23]”. To this effect, Article 1(2) of the Civil Status Registration Ordinance in Cameroon provides that a birth certificate shall be intangible and final document. Once it is issued, the presumption of regularity is invoked in favour of the child.

THE LEGAL IMPLICATIONS FOR NON-REGISTRATION OF CHILD BIRTH IN CAMEROON

International law does not prescribe any criminal sanctions against non -registration of a child at birth. However, Article 4(1) of the Civil Status Registration Ordinance prescribes that every Cameroonian who fails to declare birth to the competent Civil Status Registrar shall be punished under Section 370 of the Cameroon Penal Code but failed to state the punishment. However, Section 370(11) of the Cameroon Penal Code [81] provides that:

The following shall be punished with a fine of from 4.000FCFA to 25.000FCFA or with imprisonment of from five to ten days, or both such imprisonment and fine...those who having been present at a delivery, do not make within the period of time prescribed by law, any declaration of birth which the law may require; those who, having found a newborn child, do not turn the latter over to the Civil Status Registrar or, if they wish to take charge of the said child, do not make a declaration to that effect to the civil status registrar of local council.

In the same vein of reasoning, the Cameroon Penal Code [82] provides that:

(a) “any civil status registrar who; makes any entry than in the registers prescribe for that purpose or fails to make such entries (b) having received a birth or death declaration fails to register it...shall be punished with imprisonment for from one to three months and with fine from 2.000 to 40.000fcfa.” In addition, Section 341 of the Penal Code punishes any person whose conduct has the result of depriving a child of the evidence of his true parentage shall be punished with imprisonment for from 5 to 10 years.

This provision is honored more in a breach in Cameroon as one will hardly come across any one for going to prison for non registration of a child at birth. Moreover, the monetary penalty is too paltry as the offence in itself is classified as “*simple offence of the fourth class*.” Furthermore, the punishment does not have a deterrent value in the criminal justice system in Cameroon. For example, the Kribi Court in Jugement No.6/77/78 of 23 Décembre 1977 “*condamnant a une peine de six mois d'emprisonnement pour contrefaçon d'un certificat officiel, un officier d'état civil ayant délivré un duplicate pour un acte de naissance inexistant*».

WAY FORWARD: GOVERNMENT MODERNIZATION EFFORTS AIMED AT ENSURING THE REGISTRATION OF THE CHILD AT BIRTH

The principle of universality demands that birth registration must be free, accessible, simple, expeditious and effective procedures without discrimination of any kind. It is against this background that the Government in the year 2013 created the National Civil Status Office [83] known in French in as “*Bureau National d'Etat Civile*” abbreviated “BUNEC” under the technical supervision of the Ministry of Territorial Administration to ensure the supervision, control, regulation and evaluation of the National Civil System in Cameroon. The first working session of the Steering Committee of the Civil Status Registry Modernization Program took place in Yaoundé presided over by the then Minister Delegate of Territorial Administration and Decentralization. Also, the Cameroon guardian posts news paper states that “operation to evaluate Cameroon’s civil status was the first National Civil Registration Conference officially launched first launched on June 30, 2016.

The conference reviewed the progress of reform of Cameroon’s civil registration system and identified the prospects for further reforms and the next stages of implementation. The evaluation thus aims at

measuring the gap between the current situation and desirable level that will enable each person to be registered in the civil status system and to enjoy their rights. During the launch, the representative of the Regional Support Group to the Africa Program on Accelerated Improvement of Civil Registration and Vital Statistics (APAICRVS) Mr Ghitu Mundunge said it is important to evaluate and identify bottlenecks and potentials of the Civil Status Systems before improving them. In response, the government expressed their commitment to the evaluation process. It should be noted that the evaluation of civil status system was a key recommendation of second meeting of African Ministers in-charge of Civil Status Registration in Durban, South Africa in 2012 and the third meeting that held in Yamoussoukro, Ivory Coast in February 2015 [84]. It focused on the validation of the strategic plan for the rehabilitation of the Civil Status Registry in Cameroon. The Strategic Plan is a translation of government five year policies in Civil Status Registry for 2018-2022. Through the Plan, government hopes to put in place a secure, reliable and credible civil status system by 2022. The Plan is a follow up to the rehabilitation program of the Civil Status of Cameroon codenamed "PRE2C" that was validated by the Prime Minister, Head of Government in November 2007. The Strategic Plan was initiated to protect citizenship, uphold human rights, and produce reliable statistics. It is also reported that the Minister of Territorial Administration launched a national training seminar for personnel of the civil status registries on September 21, 2015. Technical financial support came from the French Government in the sum of 1.3 billion francs to enhance and modernize Cameroon civil status system and plans underway to construct 8 Pilot Secondary Civil Status Centers in four regions in the country.

The European Union on 26 January 2017 also gave Cameroon the sum of \$10,748,800 to finance the Cameroon Active Support Program (PROCIVIS) to support Cameroon in two areas of particular importance that is the modernization of the civil status systems. On 30 May 2017, the Committee on the Rights of the Child considered the Combined Third to Fifth Periodic Report of Cameroon on the implementation of the CRC with key national and sectorial issues on birth registration in Cameroon [85]. The Session intends to computerize the system, ensure recuperation of available data, involve the court in the establishment of birth certificates, and data collection. Government and some development partners validated the plans. Among other issues, the Session planned to facilitate the creation of more computerized centers for establishment of birth, marriage, death, nationality and other certificates of civil status nationwide. They also plan to set up a platform for exchange of information among the different civil status stakeholders.

CONCLUSION

It is hoped that with the creation of National Civic Registration Centre, all obstacles associated with birth registration of the child will be something of the past as rightly stated by The Committee on the Rights of the Child [86] during the examination of Cameroon Third Periodic Reports submitted to it noted as follows:

Taking note of the target of 16.9 of the Sustainable Development Goals on providing legal identity for all, including birth registration, the Committee reiterates its previous recommendation [87] and urged Cameroon to eliminate all fees for birth registration and certificate issuance; increase the financial, technical and human resources of the National Civil Status Office to increase its accessibility throughout the country; strengthen awareness-raising campaigns of encouraging parents to register births. Remove administrative barriers for children living in remote areas of the requirement to produce a birth certificate to qualify for secondary school entrance exam.

It is in the light of the forgoing that this paper concludes by stating that a comprehensive birth registration campaign must be part of any strategy to ensure a meaningful birth registration in Cameroon. Consequently, special programs, that is, mobile birth registration should be organized to reach the rural population just like what Elections Cameroon (ELECAM), the election monitoring body in the country, is doing in the field to get every voter registered. The officials attend every official and social occasion such funeral celebrations, weekly market days in rural areas, etc in the discharge of their duties. It is opined that if the birth registration office embark on this type of registration, this will go a long way to give room to children born outside of hospital to be registered. Furthermore, it is recommended that the Government should simplify the procedure of birth registration as well as the reduction of cost associated with it.

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