

The African Child Policy Forum

Universal Birth Registration: The Challenge in Africa

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About The African Child Policy Forum

The African Child Policy Forum is an independent, advocacy organisation working for the realisation of child rights. Founded in 2003, the Forum's headquarters are in Addis Ababa, Ethiopia. Its mission is to contribute towards the development and implementation of effective laws and policies to put African children on the public agenda. To this end, it will provide support where the political will exists and exert pressure where it is absent.

The work of the Forum is inspired by universal values, informed by global experiences and knowledge, and guided by the needs and conditions of African children.

Working in collaboration with other non-governmental organisations (NGOs), the Forum regularly publishes research that, along with its programmatic focus, aims to provide a forum for dialogue; contribute to improved knowledge of the problems that face African children; strengthen the capacity of child-rights and human-rights organisations; and finally, to assist governments, policy makers and NGOs in developing and implementing effective pro-child policies and programmes.

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About Plan International

Plan's vision is of a world in which all children realise their full potential in societies which respect people's rights and dignity.

Plan is one of the world's largest child centred community development organisations. Staff and volunteers work with children, their families and communities in 46 countries, building skills, structures and resources to give all children an equal voice and an equal chance to develop into healthy, educated and responsible adults.

Plan also works through 16 national organisations, whose staff work to build an understanding of Plan's approach among current and potential supporters, and campaign on behalf of children worldwide. By doing so, they build committed partnerships with individuals, organisations, companies and governments, all of which means that Plan has reliable funds available.

Plan believes that children should be encouraged to express their own priorities alongside those of the adults. No project is undertaken unless it will have a positive impact for the children and there is a deep commitment to its success. Once the priorities have been identified, Plan works with a community to build its collective skills and resources to enable it to take a leading role in designing, executing and managing the projects. Plan supports this work by developing partnerships at all levels to increase the impact of programmes, influence policy, improve resource and service provision, and ensure that children's voices are heard.

TABLE OF CONTENTS

I.INTRODUCTION	1
II.THE IMPORTANCE OF BIRTH REGISTRATION ...	2
III.THE INTERNATIONAL LEGAL FOUNDATIONS	3
Birth registration as a right.....	4
Birth registration and social and economic rights	5
Combating age-related abuse and exploitation through birth registration.....	7
IV.PROGRESS.....	10
Birth registration, development and good governance.....	14
V.OBSTACLES.....	15
VI.THE WAY FORWARD.....	23

Universal Birth Registration: The Challenge in Africa

“For children to count, they have to be counted.”

Harry Belafonte

I. INTRODUCTION

Birth registration is the official recording of a child’s birth by the State. It is a permanent and official record of a child’s existence. Nothing would seem simpler than recording the name, sex, parentage, and time and place of a child’s birth, but the reality in Africa is complex. Progress towards universal birth registration in Africa is painfully slow and the gap between promise and achievement remains wide.

II. THE IMPORTANCE OF BIRTH REGISTRATION

Birth registration is the first point of contact between a child and the state. It is the first and fundamental right in and of itself. And it is the door to other rights, providing a measure of protection against age-related exploitation and abuse.

The Role of Birth Registration

A birth certificate is the first official acknowledgement of a child's existence by the State and is essential if they are to access other rights. Where births remain unregistered, there is an implication that these children are not recognised as persons before the law. Their access to fundamental rights and freedoms may be compromised. As their existence has never been recorded, there is no guarantee that their disappearance will be either. Further, as they will not be included in statistical information about children, their situation cannot be monitored.

(Zambia Country Report, 2005)

III. THE INTERNATIONAL LEGAL FOUNDATIONS

Despite its importance, birth registration is an alien concept in Africa. While the birth of a child is traditionally marked by salutations and expressions of joy, official acknowledgment through formal instruments has been conventionally frowned upon.

Resistance to birth registration can be linked primarily to traditional perceptions. Birth registration in Africa originated when colonial administrations, such as in East Africa, made it compulsory for non-Africans to register births. After independence, many countries, including Uganda, Kenya, Zambia and Zimbabwe, adapted these colonial instruments to implement national legislation with uniform application. But it is the United Nations Convention on the Rights of the Child (CRC), the African Charter on the Rights and Welfare of the Child (ACRWC), and the advocacy and practical efforts of child rights organisations, particularly UNICEF and Plan International, that really are responsible for raising awareness of the value and need for universal registration.

Birth registration as a right

The Convention on the Rights of the Child (Article 7.1) states:

“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.”

Similarly the African Charter on the Rights and Welfare of the Child (Article 6) states:

1. “Every child shall have the right from his birth to a name.
2. Every child shall be registered immediately after birth.
3. Every child has the right to acquire a nationality.
4. ...a child shall acquire the nationality of the State in the territory of which he has been born if, at the time of the child’s birth, he is not granted nationality by any other State in accordance with its laws.”

There are, however, some differences between the two instruments, which advance child rights in two distinct ways. Article 7 of the CRC, specifically spells out the child’s “right to know and be cared for by his or her parents”. This is not mentioned in the analogous article of the ACRWC.

Conversely, Article 6.4 of the ACRWC further advances the cause of the child in the context of the child’s right to a nationality. This safeguard is especially important in

Africa. The sensitive question of identity and nationality is increasingly emerging as an important political issue because of the vast movements of people. These movements are linked to migration in the pursuit of work in the best cases, but, in the worst cases, associated with displacement caused by war, conflict and unrest.

Surprisingly the ACRWC's approach of using the principle of *jus soli*: the law of the soil – as opposed to *jus sanguinis*: law of blood – to address the issue of nationality is hardly noticed by observers and experts of the ACRWC. Yet it has profound implications: it is a welcome protective umbrella for millions of African refugees, asylum seekers, displaced persons, minority groups and their children, and for the millions of children who may not know their parentage.

Birth registration and social and economic rights

Both the CRC and the ACRWC set out a range of rights including education and health. In many countries and situations, birth registration and the possession of a birth certificate are essential if these rights are to be accessed and realised. According to Plan:

“Millions of children die of preventable diseases before reaching the age of five. Ineffective systems of birth registration play a role in this crisis since unregistered children may be unable to gain access to health care services or may have to pay more than the registered child ... In some countries,

a child without proof of citizenship will also be denied access to free or subsidized vaccination programs.¹

Similarly, the lack of a birth certificate can affect a child's access to education. A Plan survey in Togo showed that 70 percent of children attended primary school without a birth certificate. Without valid proof of age, these children were unable to register for the exams that allow them to continue onto secondary education.²

Finally, the lack of birth registration impacts on the situation of orphans. There are an estimated 43 million orphaned children in Africa, representing 12.3 percent of the continent's child population. This number is projected to reach 50 million by the year 2010. Reports from Uganda and other African countries indicate that many of them are denied their right to inherit parental property because they do not have a birth certificate providing legal proof of their identity and family ties. As a result it becomes difficult to enforce their right to parental property in a court of law.

¹ N. Sharp, *Universal Birth Registration – A Universal Responsibility*, Plan International, London, 2005, p. 16.

² *Ibid.*

Combating age-related abuse and exploitation through birth registration

Millions of African children are victims of age-related abuse and exploitation. Taking the issue of child labour, we find that most African countries have ratified the two relevant International Labour Organization (ILO) Conventions. ILO's Convention on the Minimum Age for Admission to Employment (Convention 138), which has been ratified by 46 African countries prohibits the employment of children below the age of 15 (See Annex1). The more recent, ILO Convention No 182 on the Worst Forms of Child Labour, which has been ratified by 49 African countries prohibits engaging children aged below 18 years old in hazardous work or in the worst forms of child labour (See Annex 2). Yet the ILO estimates that there are as many as 80 million children – which at 40 percent constitutes the largest proportion of any region's child population – engaged in exploitative work in Africa.

Moreover, it is likely that a large number of these children are engaged in what the ILO calls the “worst forms of child labour”, working in slave-like conditions, as prostitutes, in forced and illegal military service, and in dangerous industrial and agricultural work.

Although slavery was officially abolished long ago, it is very much alive in contemporary Africa, especially in Western and Eastern Africa. Trafficking of children is widespread: boys are contracted as farmers; girls as young as eight years old, for example Ghana and Ethiopia, are taken to work for long hours as domestics or in prostitution.

A problem of a different nature, also linked to age, is the abuse children are exposed to within the justice system. The CRC and the ACRWC state that there should be special protection and treatment for children in conflict with the law:

“Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age...In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child’s best interest not to do so...” (Article 37, CRC)

The ACRWC makes almost identical provisions, but goes further, requiring that there be “a special minimum age below which children shall be presumed not to have the capacity to infringe penal law” (Article 17, ACRWC). Yet, children in many countries are treated as adults and exposed to abuse and degrading behaviour in prisons and detention centres.

In addition, there is a catalogue of age-related abuses that children are subjected to, including early marriage and forced recruitment into military service. It is difficult to tackle these abuses without an effective registration system. The lack of such a system makes it virtually impossible to prosecute the perpetrators, be it in the context of illegal child labour, trafficking, early marriage or military recruitment. Proof of age is an important first step towards protecting children and in the promotion and realisation of their rights.

Demand for Birth Registration: Somaliland

In recent years, there have been developments that have made the demand for birth registration and birth certificates in Somaliland more pressing:

- **The administrative needs** for birth registration include the demands of school and employment regulations. Many schools now require that the age of the child be established upon entry to school for the first time and at different stages during formal education. In the employment field, rules which set the minimum age for government employment at 18 years old mean that proof of age must be provided before starting a government position.
- **The legal need** for birth certificates arises because courts, the police and the custodial corps have to establish someone's age before deciding to treat them as a minor or an adult. For example, a young woman visiting Somaliland's capital, Hargeisa, from the north-east of the country was accused of espionage by the police. Her age was disputed in court until it was finally decided that she was 17 years old, and therefore not regarded as a minor by Somaliland law.³
- **The civic needs:** In 2002, Somaliland held municipal elections and subsequently, in 2003, presidential elections. The voting age was set at 18 years old, but the absence of birth registration made the voting process problematic. Many young people, both male and female, participated in the elections, but the lack of proper age certification made it difficult to decide who was eligible to vote. Ultimately, this could jeopardise the very integrity of the elections.

(Somaliland Country Paper, 2005)

³ There are four parallel laws in Somali society that set the age of adulthood at three different times. Islamic Sharia laws and traditional laws of the Somali "Xeer" society recognise someone as an adult at 15 years. Somalia's codified laws recognise childhood as ending at 14 years, while international norms and regulations recognise anyone below 18 years as a child. Thus, there is confusion regarding who is a child and who is not.

IV. PROGRESS

The CRC has been ratified by all African countries except Somalia, and the ACRWC by 37 of the 53 member states of the African Union (See Annex 3). Many have incorporated the provisions of the two instruments into domestic law. But a gap between law and practice remains.

The problem, however, is not peculiarly African. According to Plan⁴ and UNICEF⁵, the vast majority of unregistered children are found in developing countries. Indeed levels of birth registration correlate with levels of development. Of the 48 million unregistered children in the world, most live in South Asia and Africa:

⁴ N. Sharp, *Universal Birth Registration – A Universal Responsibility*, Plan International, London, 2005.

⁵ UNICEF, “Birth Registration: Right from the Start”, *Innocenti Digest*, No 9, UNICEF, Florence, March 2002.

Table 1 – Percentage of births that are unrecorded across world regions (UNICEF, 2005)

Region	Percentage of births that are unrecorded
South Asia	63%
Sub-Saharan Africa	55%
Eastern Europe, the Commonwealth of Independent States and the Baltic States	23%
East Asia and the Pacific region	19%
The Middle East and north Africa	16%
Latin America and the Caribbean	15%
Industrialised countries	2%

Focusing on Africa, it is clear that few countries have complied with their obligations under the CRC and the ACRWC. Indeed, there are a large number of African countries where the birth registration rate is below 50 percent:

Table 2 – Percentage of registered births across African countries

Country	Estimated % of births registered
Benin (2001)	69.7%
Cameroon (2000)	79.0%
Central African Republic (2000)	72.5%
Chad (2000)	24.9%
Congo, Democratic Republic of (2002)	34.9% (declared)
Côte d'Ivoire (2000)	71.8%
Egypt (1998)	90.0% or over
Gambia (2000)	32.0%
Ghana (2002)	17.0%
Guinea (2002)	37.0%
Guinea Bissau (2000)	42.0%
Kenya (2003)	38.0%
Lesotho (2000)	50.6%
Mauritania (2001)	58.0-60.0%
Niger (2000)	45.0%
Nigeria (2001)	28.0%
Senegal (2000)	60.9%
Sudan, northern (2000)	63.8%
Uganda (2005)	62.0%
Zambia (2000)	9.6%

Birth registration rates vary within countries. Urban areas tend to have a better record than rural areas, or those that are geographically inaccessible. Additionally, disparities in registration rates within countries mirror uneven development among socio-economic groups. In

Kenya, for example, birth registration rates are as high as 74 to 84 percent in its Central Province and as low as six to eight percent in parts of the Rift Valley, Eastern and North Eastern Provinces. Within these provinces, as is the case elsewhere, the children who are not registered are the very children who are also disadvantaged in terms of socio-economic status, education, healthcare and protection. They include children of indigenous groups, refugees, asylum seekers, migrants and internally displaced groups.

Birth registration, development and good governance

For rights-based programmes to be effective, they must be supported by an intellectual apparatus that views rights as integral to the definition of goals, objectives and strategies. There also must be a sufficient framework of knowledge and information to identify the dimensions of needs and determine how they can be addressed. Birth registration statistics are, for example, fundamental to informed planning to ensure that the basic needs of children – education and health – are met. They generate information about the size, gender and age of the child population, which help governments to plan effectively for education, health, social welfare and a host of other services.

Registration and Rights: A Summary

Birth registration is fundamental to the realisation of a number of rights and practical needs:

- The child's right to a nationality.
- Access to healthcare.
- Access to immunisation.
- Ensuring that school enrollment takes place at the right age.
- Protection from child labour through employment laws.
- Protection for children who are trafficked, and who are eventually repatriated and reunited with family members.
- Special protection for children in conflict with the law to ensure they are not treated as adults, legally and practically.
- Protection from harassment by police or other law enforcement officials.
- Protection for girls from forced marriages before they are legally eligible.
- Protection from under-age military service or conscription.
- Accessing employment.
- Opening a bank account.
- Obtaining a passport.
- Voting.

(UNICEF, 2002)

V. OBSTACLES

Given the obvious importance of birth registration, why has progress been so slow in Africa?

The first obstacle is the lack of sufficient awareness – on the part of parents and governments – of the direct long-term consequences on children and the macro impact on planning. There is no urgency or motivation on the part of parents until they experience problems later in a child's development. And governments, especially in poor countries, may not be sufficiently aware of their international obligation to ensure universal birth registration or of its significance in setting the national agenda. They also may not have the political will to commit the resources needed, especially if birth registration is perceived as minimising or enhancing the representation of a particular ethnic or religious group. As a result, governments may not have the legislative framework needed to establish institutions to enforce national birth registration.

Somaliland: Perceptions of Birth Registration

There is no culture of birth registration in Somaliland and it is generally perceived to be anything from a waste of time to a nuisance. People see a child's identity as being established when they are born into a specific lineage system of clan, sub-clan and sub-sub-clan. But the clan lineage system, or genealogy, does not serve the modern state's needs of identifying a child and establishing their citizenship. Their rights are therefore not guaranteed.

In addition, many children are born to nomads, far from hospitals. Even in towns where there are hospitals, many are born at home with the help of traditional birth attendants. This means that many births go unrecorded.

(Somaliland Country Report, 2005)

A second constraint may be fear on the part of parents that information concerning their child's birth will be abused or used to discriminate against them and their children because of their ethnic or religious origin.

Obstacles to Universal Birth Registration in Uganda

- There is a lack of awareness in the population of the importance of birth registration.
- Information about birth registration is not passed on.
- There is a lack of support from key institutions.
- Laws relating to births and deaths may not be well known or harmonised with other legislation.
- Births take place outside health facilities.
- There is a lack of adequate resources.
- Birth and death registration activities rely primarily on volunteers.
- Traditional beliefs and taboos are not supportive of birth registration.
- The registration of births and deaths is not linked to other programmes.

(Uganda Country Report, 2005)

It also may be that providing the information that is required draws attention to situations that are at odds with local values or customs. Unmarried women for example, may be reluctant to declare their status or that of their child.

Finally, registration may be costly for poor parents, either because there is a fee associated with it or because there is a cost involved in travelling long distances to register a birth.

Problems in Current Practices: Ethiopia

The understanding of birth registration across regions and research informants, at both individual and institutional levels is limited in Ethiopia. Its importance as a rights issue and as part of an information system for planning and policy is therefore not widely grasped.

What is happening, ostensibly as a replacement for birth registration, is the practice of birth certificates being issued by churches, hospitals and municipalities. None of these organisations consider birth registration to be a prerequisite for issuing certificates. While churches and hospitals may consult baptismal records and delivery notes to issue birth certificates, municipalities rarely require more than some form of identity paper from another source. In all cases, the certification process is exposed to falsification of age, identity of the person and their parents, and birthplace.

The absence of birth registration and incontestable certificates has resulted in the violation of children's rights to name and nationality; to protection from abuse, neglect, and exploitation, including early marriage and trafficking; to protection from maltreatment, including juvenile justice administration and child labour; to **basic social services**, including education and health; and the personal rights of orphans and other vulnerable children. Institutions regularly encounter problems accessing reliable data quickly, at national and local levels, due to the absence of data generated by a birth registration system. Community level informants have also felt the effects, as most people do not know their birth date and therefore calculate their age on the basis of unreliable oral information.

(Ethiopia Country Report, 2005)

These and other obstacles notwithstanding, many African countries are taking steps to address the problems that surround birth registration. These include the formulation of a national plan of action in Ethiopia, the use of community-based organisations in Uganda, consolidating and streamlining responsibility and authority for birth registration in Lesotho, and introducing systems of decentralisation.

Ethiopia's National Plan of Action

Goals of the National Plan

- Set up a national civil registration system to record vital statistics from all regional states and administrations, covering all population groups, within 10 years.
- Increase birth and death registration levels to 90 percent within five years.
- Increase marriage and divorce registration levels to 90 percent within seven years.
- Establish an electronic database to store the national population's records.

The strategic areas of intervention include:

- making civil registration law compulsory;
- ensuring that the government is committed to establishing and enforcing civil registration law and that they endorse the National Plan of Action;
- endorsing model civil registration and technical instruments for collecting vital statistics;
- establishing and enforcing a national vital statistics act;
- devising a strategy to introduce the use of electronic media;
- developing national civil registration information, and education and communication directives and strategies;
- developing a strategy to ensure the cooperation and coordination of stakeholders at national and international level;
- devising a programme to develop human resources.

(Ethiopia Country Report, 2005; The African Child Policy Forum, 2005)

Consolidating and Streamlining Authority: Lesotho

After 1973, population registration for Basotho people became compulsory. The registration of births and deaths became the shared responsibility of the Registrar General in the Ministry of Law and Constitutional Affairs, and the Chieftainship Institution and District Administration in the Ministry of Local Government. District Administrators and Chiefs could only act with authorisation from the Registrar General. In 1999, the Ministry of Local Government became solely responsible for population registration, making the system easier to use. A Registrar for Births and Deaths acts at central level, and there are Assistant Registrars in each district.

(Lesotho Country Report, 2005)

Scaling up Birth and Death Registration Pilot Projects: Uganda

Uganda initially implemented its community-based approach to birth registration through pilot programmes in the Arua and Busia districts. This enabled problems to be identified and improvements to be made before the programme was scaled up to cover the rest of the country after a few years. It now covers 34 districts with 22 remaining. As the programme has been implemented in phases, it has been possible to make improvements throughout the process.

This strategy has supported other community-based initiatives. The data collected through birth registration has been used to establish how many children are expected to be immunised through the Uganda National Expanded Programme of Immunization. It also has been used by the Universal Primary Education programme to estimate the number of children expected to start school each year and in districts covered by the Child Days programme, which provides health services to children in Uganda.

(Uganda Country Report, 2005)

VI. THE WAY FORWARD

It is clear that birth registration is fundamental both from a rights perspective and as an instrument for social and economic planning. It must be universal, free and compulsory. But for an effective birth registration system to exist three things are needed:

- a. A legislative framework outlining which authorities are responsible for enforcement and what their obligations are to be.
- b. An institutional framework for its implementation.
- c. Sufficient resources to enforce the system.

These are fundamental to the establishment and operation of an effective birth registration system. This much is straightforward but establishing an effective system has proved difficult. Many explanations have been given concerning why legislative and institutional frameworks have not been developed, and why adequate resources have not been allocated to enforcing universal birth registration. None of them, including those given in the country reports, prepared for the Second Eastern and Southern Africa Conference on Universal Birth Registration, are convincing.

Given the will, many of the functions of an effective birth registration system could be implemented through traditional local institutions, community-based organisations and traditional methods of reporting births. The biggest obstacle seems to be the lack of political will. At the end of the day this means that pressure must be placed on governments and the public should be educated through mass mobilisation at all levels. A major challenge for all of us is therefore to come up with a strategy of public mobilisation that can bring universal birth registration to the forefront of the policy agenda.

References

This paper was prepared as a background document for the Second Eastern and Southern Africa Conference on Universal Birth Registration organised by Plan International and UNICEF in Mombasa, Kenya, September 26-30, 2005. It draws heavily on the country reports prepared for the conference especially those of Egypt, Ethiopia, Kenya, Lesotho, Somaliland, Sudan, Uganda, Zambia and Zimbabwe. The following published documents were also used:

The African Child Policy Forum, 2005. *Perception and Practice: A Review of Birth Registration in Addis Ababa and the Regional States of Oromia, Amhara and SNNPR, Ethiopia*. Addis Ababa: The African Child Policy Forum.

Sharp, N, 2005. *Universal Birth Registration – A Universal Responsibility*. London: Plan International.

UNICEF, March 2002. Birth Registration: Right from the Start. *Innocenti Digest*, No 9.

UNICEF, 2005. *The 'Rights' Start to Life: A Statistical Analysis of Birth Registration 2005*. New York: UNICEF.

Annexes

Annex 1 ILO Convention 138 has been ratified by Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Comoros, Côte D'Ivoire, the Democratic Republic of Congo, Djibouti, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Kenya, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sao Tome and Principe, Sudan, Swaziland, United Republic of Tanzania, Togo, Tunisia, Uganda, Zambia and Zimbabwe.

Annex 2 ILO Convention 182 has been ratified by Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, the Democratic Republic of Congo, the Republic of Congo, Côte D'Ivoire, Djibouti, Egypt, Equatorial Guinea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Kenya, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Seychelles, South Africa, Sudan, Swaziland, Tanzania, Togo, Tunisia, Uganda, Zambia and Zimbabwe.

Annex 3 The African Charter on the Rights and Welfare of the Child was adopted on July 11, 1990 in Addis Ababa, Ethiopia. It entered into force on November 29, 1999. It has been ratified by Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Chad, Comoros, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Ghana, Guinea, Kenya, Lesotho, Libya, Madagascar, Malawi, Mali, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Seychelles, South Africa, Tanzania, Togo, Uganda, and Zimbabwe. Central African Republic, the Republic of Congo, Djibouti, Gabon, Guinea Bissau, Liberia, Saharawi Arab Democratic Republic, Somalia, Swaziland, Tunisia and Zambia are signatories to the African Charter on the Rights and Welfare of the Child, but have yet to ratify it.

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