



## REFUGEE RIGHTS UNIT

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ATT: Mr Sihle Mthiyane  
Chief Director: Policy and Strategic Management  
Department of Home Affairs

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### **RE: Submission on the Proposed Official Identity Management Policy**

The following comments on the Official Identity Management Policy are submitted by the Refugee Rights Unit at the University of Cape Town. Our interest is in ensuring that the rights of refugees and asylum seekers to seek and enjoy asylum under international and domestic law are meaningfully realised. While the proposed policy excludes from its scope 'Policies and processes to grant refugee status' (chp 3.2), the policy still naturally interfaces with refugee and asylum seeker matters as this community is reliant on DHA systems. Our experience working closely with the refugee and asylum seeker community informs the submissions below.

#### ***On the integrated National Identification System (NIS)***

We welcome the proposed National Identification System (NIS) to the extent that it integrates current government information systems. Our hope is that a consolidated database will increase efficiency in the system, particularly with respect to verification of the identities and permits of refugees and asylum seekers. There have been inconsistencies in verification in the past, with some government departments being able to verify identities while others for some reason are unable to do so. Increased ease of access to this information, standardised across government departments (for instance Labour, Social Development, and traffic departments), as well as by financial institutions and business, will increase ease of access by refugees and asylum seekers to key services and opportunities.

We would also appreciate clarity on the ability of the new system to produce coherent data on the situation at the border, for instance how many people are entering the country declaring an intention to apply for asylum, and from which countries. This would aid in research and monitoring of the asylum-seeker situation and be beneficial both to government and to organisations in this field.

## ***On birth registration***

We note the DHA's commitment to a principle of universal coverage of all residents, citizens or not, which is free from unfair discrimination (chp 7.1). In particular the affirmation of a policy of universal birth registration is encouraging. The new system should, in order to achieve universal registration, avoid the pitfalls of the current system, which we outline below.

### *Delays.*

In the instances where the child's mother holds refugee status or an asylum seeker permit, as opposed to a South African ID, registration of the child's birth suffers delays due to DHA having to verify the mother's status/documents with the immigration system. Any birth must be registered within 30 days: delays in the verification process mean that refugee and asylum seeker mothers are prejudiced. As above, we hope that the integrated identity system will eliminate these delays.

### *Barriers.*

At present, where both parents are completely undocumented there is no possibility of registering the child's birth until the parents are documented. This is contrary to the affirmed principle of universal birth registration as well as section 28(1)(a) of the Constitution which states that every child has a right to name and nationality from birth. In addition, the Convention on the Rights of the Child, art 7, states that "1. The child shall be registered immediately after birth and shall have the right from birth to a name [and] the right to acquire a nationality..." and that State parties are obligated to ensure the realisation of these rights. The unregistered child risks exclusion from services, invisibility, and statelessness.

Furthermore, where the father of the child is documented while the mother is undocumented, current policy requires a DNA test to prove the child's paternity before registration is possible. However, DNA testing is done at own-cost and requires consent from the Children's Court. This process is costly and time-consuming — oftentimes simply unattainable. Undocumented mothers are forced to wait until they are documented before their child's birth is registered. These families are prejudiced due to their status.

It bears remembering, as explained in chp 7.1 of the policy, that birth registration has no effect on refugee status or citizenship. As such birth registration should not be so strictly guarded since it poses no risk to other DHA policies. Instead, elimination of prejudice should be the guiding force of birth registration policy.

Chapter 9, point (vi) of the policy promises new legislation which will allow for universal registration in the population register. We submit that such provisions should take into account the circumstances undocumented, the poor, and refugees and asylum seekers if truly universal registration is ever to be achieved. This is important for the best interests of all children born in the country, which the Constitution mandates irrespective of the child's heritage or origin.

Yours faithfully,

UCT Refugee Rights Unit

Per:

A handwritten signature in black ink, appearing to read 'F. Khan', with a horizontal line underneath.

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