

Human Rights Watch

Children's Rights

<https://www.hrw.org/news/2015/08/03/texas-recognize-these-children>

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The Texas Department of State Health Services is refusing to issue birth certificates to some children born to undocumented parents in the state. A [lawsuit](#) filed in federal court by some two dozen immigrants wants the practice to end.

The issue here isn't whether these children are U.S. citizens. They are. The United States, like almost every other country in the Americas, grants automatic citizenship to those born on its soil.

The issue is whether these children will be consigned to a future without opportunity. A birth certificate establishes a person's existence under the law, and is a crucial way to prove citizenship, enroll in school, enter the workforce and obtain a driver's license.

The pending lawsuit highlights some problematic features of the way Texas assures its children or doesn't their basic right to an identity.

It's reasonable for the state to ask for identification from applicants for birth certificates. The state government has a legitimate interest in protecting against identity theft and other abuse. But the citizenship of a child's parents doesn't matter; the state should only be concerned with establishing that a child's parents are who they say they are.

How do they do that? It turns out Texas makes it very onerous for undocumented parents.

Say you're the parent of a child born in Texas. You're not a U.S. citizen, and you're undocumented.

Texas will accept only a valid foreign passport if you have a U.S. visa.

Of course, many people don't even have a foreign passport. Maybe you were brought here as a child yourself, or maybe you fled your homeland in fear for your life. You may have lost whatever documents you had, or they may have expired.

Texas isn't one of the 14 jurisdictions in the United States that issued [drivers licenses](#) or similar identification cards to undocumented immigrants, so unless you've lived in a state that does, you probably don't have ID issued in the United States.

Texas will accept a current Mexican [voter registration card](#). But those are issued only in Mexico, only if you're over 18, and only with proof of residence in an electoral district. (There is a specific voter registration card to allow overseas voting, but it can only be obtained during a brief period just before each presidential election, every six years.)

So, what else? The [regulations](#) allow other forms of foreign photo identification. These aren't specified, but presumably include things like foreign driver's licenses. If you don't have a current one, you probably won't be able to get a new one without returning to your home country, which may not be an option.

But if you carry a *matricula consular*, an identification card issued by a Mexican consulate, you won't be able to use that.

That's because, according to the Health Department's [Vital Statistics Unit](#), issuing consulates don't authenticate and verify the supporting documents; they instead rely on visual inspection of those documents before issuing *matriculas*.

Maybe there are concerns with the way *matriculas* are issued. But visual inspection is similar to the processes used in most countries for issuing identity documents; it's odd to single out this particular document in this way.

And *matriculas* are the form of identification that undocumented immigrants are most likely to have, given the formidable hurdles to obtaining other documents. Even if *matriculas* were accepted, a parent who presented one would still have to provide two forms of supporting identification anyway, so it's hard to see the rationale for disallowing them.

In fact, the logic of the system as a whole is elusive. Why is it that a foreign passport is not acceptable without a visa, for example, but a voter registration card is? If the purpose is identification, surely the passport does that on its own.

Citing the pending litigation, neither the health department nor the state attorney generals office would answer my questions about the rationale for these requirements.

At the end of the day, states need to find a way to ensure that all children born in their state receive basic identity documents, even if it means going the extra yard to verify the identity of the parents.

In this case, there are plenty of other checks on identity theft, and depriving some U.S. citizens of birth certificates is simply unacceptable.

However this litigation is resolved, Texas should immediately revamp its policies to ensure that all of its children are afforded their human right to recognition before the law.

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