



Legal Analysis of CIVIL REGISTRATION LAWS OF NEPAL



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LEGAL ANALYSIS OF CIVIL REGISTRATION LAWS OF NEPAL

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Vital Registration is considered as one of the most important elements to be taken into consideration while initiating any kind of academic and/or legal procedures. In fact, Birth Registration certificate is observed as an important document while applying for the citizenship certificate in Nepal.

This document aims to critically analyze the civil registration laws of Nepal. Initiatives have been taken by the Government of Nepal to ease the vital registration procedures appended by the gaps and weaknesses prevalent in the current civil registration laws, and such initiatives can be further enhanced. Therefore, this analysis suggests key recommendations to further address the identified gaps in order to ensure universal access to birth registration and other civil registry document.

I would like to extend my sincere thanks to Mr. Bishal Bhardwaj, Director and other officials of the Department of Civil Registration (DoCR) for providing substantive comments and suggestions in the analysis. I would also like to express my appreciation to advocate Dechen Lama and Kritagya Rai for helping me to give a final touch to the Analysis and Himal Shrestha for providing the technical assistance in preparing the analysis and layout design.

On this note, this analysis would not have been possible without the substantive and thoughtful comments from the participants of the Consultation Meeting on the Analysis before its finalization and those who actively engaged in providing the valuable inputs. I also would like to acknowledge and thank all who indirectly assisted in the architecture of the legal analysis.

A handwritten signature in black ink, appearing to read 'Sabin Shrestha', written in a cursive style.

Sabin Shrestha

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1. INTRODUCTION

Civil registration is defined by the United Nations as “*universal, continuous, permanent and compulsory recording of vital events provided through decree or regulation in accordance with the legal requirements of each country*.”¹ There are four basic principles underlying the civil registration system that are: universal coverage, continuity, confidentiality and regular dissemination.² Therefore, it is important that each country establishes a civil registration system that is in conformity with these principles and backed by its own legal framework.

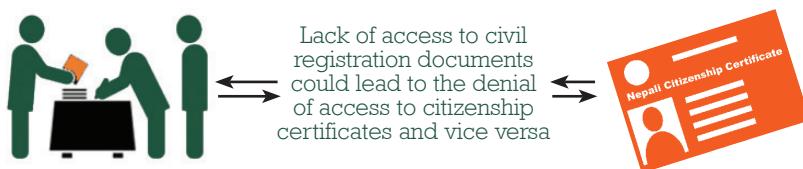
Civil registration system of Nepal represents key aspects of legal identity of persons in the country. Legal identity of persons operates under a broad framework of the Constitution and a number of laws and regulations.³ The Constitution of Nepal, 2015 is the paramount document to deal with legal identity of people living in Nepal. The constitutional provisions have been supplemented with a number of laws, the major of which are the Birth, Death and Other Personal Events (Registration) Act, 1976 and Citizenship Act, 2006. Since the first proof of very existence of a person is exhibited by registration of birth, the birth registration has been taken as the solid basis for creating legal identity of a person.

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1. Principles and Recommendations for a Vital Statistics System: Revision 3; Department of Economic and Social Affairs of the United Nations Secretariat, 2014; p. 65.
 2. Ibid, at 11.
 3. These laws include: Constitution of Nepal, 2015; The Birth, Death, and Other Personal Events (Registration) Act, 1976; The Birth, Death, and Other Personal Events (Registration) Regulations, 1977; Citizenship Act and Citizenship Regulation, 2006; Local Self Governance Act, 1999; The Personal Events Registration Directives, 2013; Circulars and Directives issued from time to time by GoN to clarify on unclear issues of vital registration.

In Nepal, civil registration includes the registration of birth, marriages, divorce, deaths and in-country migration. Divorce is given legal effect based on a court decision. Occurrence of any of the personal events (birth, death, marriage, divorce and migration) is the fundamental basis to create or change the legal identity or legal status of a person in Nepal.

Interconnection of civil registration with citizenship and social protection benefit

Civil registration and citizenship certificates are closely linked in Nepal. The lack of access to civil registration documents could lead to the denial of access to citizenship certificates and vice versa.



Civil registration documents such as birth, marriage and migration certificates are required based on the person's circumstances as the main evidence to apply for a citizenship certificate. At the same time, citizenship certificates are required for marriage registration and migration certificates. However, in practice, the importance of citizenship certificate has been misconstrued by the concerned authorities, making it mandatory while applying for the birth registration certificate of the children. For instance: if the parents, in particular father, of children lack citizenship certificates, this precludes children from acquiring birth registration certificates though the Birth, Death and Other Personal Events (Registration) Act, 1976 and Rules 1977 do not require citizenship certificate of parents. The foregoing scenarios often lead to vicious circles with no clear way to secure relevant documentation. The citizenship certificate is not required for birth registration, however birth registration application form requires citizenship information of parents and informant so registrars are asking for citizenship certificate and it is hindering birth registration process.

On the other hand, it is also important to highlight that the misconception of registering a child's birth confirms nationality can put vulnerable children at additional risk. Birth registration is the permanent recording of a child's existence and does not confer citizenship automatically. It is to be noted that birth registration does not automatically lead to the acquisition of citizenship certificate. Citizenship is acquired through the operation of Citizenship law. The two processes are distinct.

Lacking civil registration documents, including a birth certificate, leads to a person being deprived of various state benefits, and more importantly acquiring a citizenship certificate. In the case of children, the absence of a birth certificate precludes children from obtaining various entitlements, including child grants, enrolment in school, and to sit for the District Level (Grade 8) and Secondary Education Examination (SEE) (Grade 10) examinations. Particularly, the registration of a child birth is the first step in establishing the legal identity of a person. And identification is the key enabler for achieving development outcomes making basic services such as health, social security and education available for a child. Birth registration, which indicates the age of a child, is also central to protecting a child from child labor, being arrested and treated as an adult in the justice system, forcible conscription in armed forces, child marriage, trafficking and sexual exploitation. In the case of Nepali women, the lack of a marriage registration certificate precludes married women from applying for citizenship certificate if she had not acquired it before the marriage and, as a result, she is deprived of many other rights and benefits including social security allowances. Additionally, if a Nepali woman does not have citizenship certificate, she will be deprived of single/widow allowances conferred by the state.

Recognition of registration gives evidence of the occurrence of the vital event of a person and rights associated with it. The vital event registration certificate can be used as evidence in any Office or court of law and in any personal transaction (activities).⁴ Since birth registration certificate is considered as strong evidence while exercising the right to inheritance by a person, the importance of birth registration could not be negated. Besides, the spouse

4. Section 9 of the Birth, Death and Other Personal Events (Registration) Act, 1976.

can exercise the equal right to property and family affairs bestowed by the Constitution of Nepal⁵, which means the marriage registration certificate of the spouse would be very remarkable and noteworthy while claiming the right to Property.

If persons lack civil registration document(s), they are deprived of various social security benefits.⁶ Social Security Program Operating Guidelines, 2072 (2016) specify required documents to access social security benefits. Citizenship certificate is mandatory to apply for these allowances except for children allowances.⁷ Birth registration certificate is required to apply for child allowance together with citizenship certificate of mother or guardian in case mother is not available. In addition to citizenship certificate, single women have to submit divorce registration certificate,⁸ widow women have to submit death registration certificate of husband⁹ and persons with disability have to submit disability Identity Card issued by Women and Children office.¹⁰ Therefore, all identity documents accessing to social protection are closely linked to civil registry document and citizenship certificates.

5. Article 38 (6) of the Constitution of Nepal.

6. Social Security benefits include allowances for senior citizens, single women, widowed, persons with disability, endangered indigenous ethnic groups and children. See Section 8 of the Social Security Program Operating Guidelines, 2072 (2016).

7. Section 6 (4) (b) of the Social Security Program Operating Guidelines, 2072 (2016).

8. Section 6 (4) (d) of the Social Security Program Operating Guidelines, 2072 (2016).

9. Section 6 (4) (e) of the Social Security Program Operating Guidelines, 2072 (2016).

10. Section 6 (4)(f) of the Social Security Program Operating Guidelines, 2072 (2016).

2. NEPAL'S HUMAN RIGHTS OBLIGATIONS FOR CIVIL REGISTRATION

A number of international human rights (HR) instruments require state parties to ensure legal identity of every citizen. The right to identity of a person is a universal human right that emanates from Article 6 of the Universal Declaration of Human Rights, 1948 that declares, "Everyone has the right to recognition everywhere as a person before the law."¹¹ The International Covenant on Civil and Political Rights, 1966 declares that every child shall be registered immediately after birth and shall have a name. The Covenant also provides that every child has the right to acquire a nationality.¹²

Birth registration is the continuous, permanent and universal recording within the civil registry of the occurrence and characteristics of birth, in accordance with the national legal requirements. It establishes the existence of a person under law, and lays the foundation for safeguarding civil, political, economic, social and cultural rights. As such, it is a fundamental means of protecting the human rights of the individual.¹³

The Human Rights Committee, in its General Comment No. 17 on the rights of the child, stated that Article 24, paragraph 2 (of the ICCPR) should be interpreted as being closely linked to the right to special measures of protection, and that the main purpose of the obligation to register children after birth is to reduce the danger of abduction, sale of or traffic in children, or of other types of treatment that are incompatible with the enjoyment of the rights provided for in the Covenant.¹⁴

11. Article 6 of the 1948 Universal Declaration of Human Rights.

12. Article 24 of the ICCPR.

13. UN General Assembly Resolution: *A/HRC/27/22*, Birth registration and the right of everyone to recognition everywhere as a person before the law 2014.

14. Birth registration and the right of everyone to recognition everywhere as a person before the law: Office of the United Nations High Commissioner for Human Rights, UNICEF and Plan International; p. 16.

The Convention on the Rights of the Child (CRC) 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.”¹⁵ It requires state parties to “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.”¹⁶

The CRC requires the States Parties to undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties are required to provide appropriate assistance and protection, with a view to re-establishing speedily his other identity.¹⁷

At the intergovernmental level, both the United Nations General Assembly and the Human Rights Council have been particularly influential in highlighting the importance of universal birth registration. The Assembly has included the issues of birth registration and preservation of identity in at least one resolution every year since 2001. In its resolutions, the Assembly consistently urged States to intensify their efforts in order to ensure the implementation of the right of the child to birth registration as recognized by law. The Human Rights Council has also addressed the issue of birth registration in thematic resolutions, including on migration, the rights of the child, arbitrary deprivation of nationality and the fight against sexual violence against children.¹⁸

In addition to the above-mentioned obligations arising out of international human rights instruments to which Nepal is a party, there are other international commitments expressed time and again by way of policy declarations and setting international goals pertaining to civil registration and identity.

15. Article 7 of the CRC.

16. *Ibid.*

17. Article 8 of the CRC.

18. Article 8 of the CRC.

Sustainable Development Goals (SDG)



The Sustainable Development Goals (SDGs) are a bold, universal agreement to end poverty in all its dimensions and craft an equal, just and secure world – for people, planet and prosperity by 2030. The 17 SDGs and 169 targets are a part of transforming our world: the 2030 Agenda for Sustainable Development, which was adopted by 193 Member States at the historic UN General Assembly Summit in September 2015, and came into effect on January 1, 2016. They recognize that ending poverty must go hand-in-hand with strategies that build economic growth and addresses a range of social needs including education, health, social protection, and job opportunities, while tackling climate change and environmental protection.¹⁹ One of the Goals of the SDG requires states to provide legal identity for all, including birth registration, by 2030.²⁰ SDG 1 target 1.3 has emphasized to implement nationally appropriate social protection systems and measures for all and by 2030 achieve substantial coverage of the poor and the vulnerable, which is not achievable without universal access to civil registration.

The SDG puts the justification of focusing on securing legal identity, especially birth registration, that though some countries have progressed well, the global average of birth registration is just 71 per cent, on the basis of available country data reported from 2010 to 2016 and that fewer than half (46 per cent) of all children under 5 years of age in sub-Saharan Africa have had their births registered.²¹

19. <http://www.un.org/sustainabledevelopment/development-agenda/> visited on August 11, 2017.

20. Goal 16.9 of the Sustainable Development Goals (2015-2030)

21. <http://www.un.org/sustainabledevelopment/development-agenda/> visited on August 11, 2017.

ESCAP Ministerial Declaration

The Declaration adopted in 2014 by ministers and representatives of members and associate members of the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) assembled at the Ministerial Conference on Civil Registration and Vital Statistics in Asia and the Pacific has set the three basic Goals with regard to civil registration.²²



Universal civil registration of births, deaths and other vital events



All individuals are provided with legal documentation of civil registration of births, death and other vital events, as necessary, in order to claim identity, civil status and ensuing rights



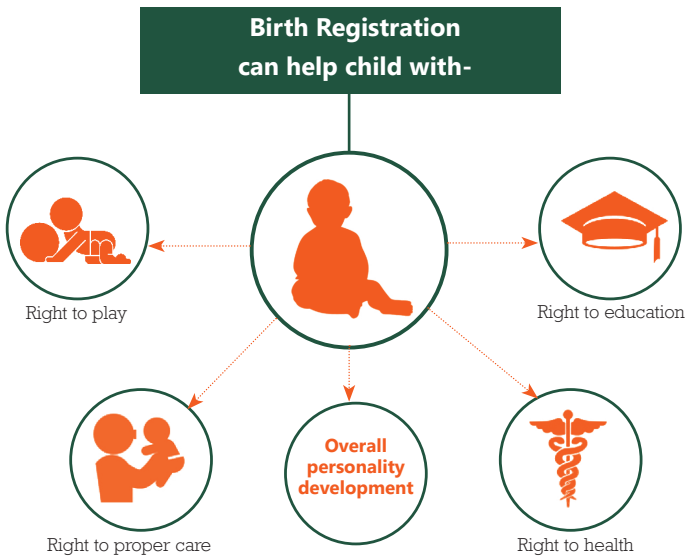
Accurate, complete and timely vital statistics (including on causes of death), based on registration records, are produced and disseminated.

Therefore, it is high time for states to comply with the Declaration.

22. ESCAP Declaration adopted by the Ministerial Conference on Civil Registration and Vital Statistics in Asia and Pacific on 28 November 2014 in Bangkok, Thailand.

3. CONSTITUTIONAL GUARANTEE

The Constitution of Nepal has guaranteed that no citizen of Nepal shall be deprived of the right to obtain citizenship.²³ This provision is particularly important because citizenship certificate is the cornerstone identity document, serving as a formal prerequisite for other important forms of legal identity. Its centrality is underscored by the fact that, in practice, it frequently serves as both a prerequisite and a substitute for many other types of documentation leading to several incentives and benefits.



23. Article 10 (1) of the Constitution of Nepal.

Dealing with the fundamental rights of child, most importantly, the constitution in Article 39 (1) explicitly proclaims that “Every child shall have the right to name and birth registration along with his or her identity”.²⁴ Similarly the succeeding article guarantees the Right to education, health, maintenance, proper care, sports, entertainment and overall personality development. Since the birth registration document is the first/foundation legal document of a person, this opens the door for other rights, entitlements and opportunities for her/his life. However, all the state benefits and allowances are discarded if the child is not registered. Therefore, it is obvious that the right to birth registration, one of the key aspects of civil registration, is a fundamental right of every child who is in Nepal. This right of the child can only be materialized once the civil registration laws ensure registration of each child’s birth in Nepal.

24. Article 39 (1) of the Constitution of Nepal.

4. LEGAL PROVISIONS

Though there are several legal provisions dealing with different types of legal identity documents in Nepal, the Citizenship Act, 2006; Birth, Death and Other Personal Events (Registration) Act, 1976 and Electoral Rolls Act, 2017 are the major Acts providing for legal provisions and procedures dealing with legal identity of persons in Nepal. The Citizenship Act deals with grounds for acquisition of Nepali citizenship, the modes and types of citizenship, procedures to be followed and offences and punishment relating to citizenship. The Electoral Rolls Act deals with eligibility to become a voter in an election and procedures to be followed for providing or obtaining voter's identity card, which is a prerequisite for casting vote in an election. Other important laws related to legal identity include the Children's Act of 1992, the Local Self-Governance Act of 1999, Notary Public Act, 2006.

However, for the purpose of this study, analysis of the civil registration laws has been made.

Analysis of the Birth, Death and Other Personal Events (Registration) Act, 1976

(i) Objective of the Act

As the preamble suggests, this Act has been formulated with the objective of making legal provisions for providing a certificate having registered the birth, death, marriage, divorce and migration of persons residing in Nepal. So, it is obvious to note that the law aims at registering these events of all persons living in Nepal and not only of Nepali citizens.

(ii) Vital events covered by the Act and relevant International standards

The Act covers five events namely, the birth, death, marriage, divorce and migration as the vital events to be registered under the Act. It also requires

deputation of staff by government to prepare family details for the purpose of registering personal events. The Act casts duty on the concerned person to provide details required, or to respond to the questionnaire produced, by the staff so deputed.²⁵

However, according to applicable international standards, events like fetal death, adoption, judicial separation, annulment, recognition and legitimization also must be treated as vital events to be registered for statistical purpose.²⁶ Thus, endorsing the international standards, there is a strong need to comprehend these events as the important events by the Government of Nepal in the forthcoming draft.

(iii) Persons authorized to inform about vital events registration

This Act casts duty on the following persons to register information of the following personal events within a period of 35 days of the happening of such events at the Office of the Local Registrar²⁷ :-

Information of:



Birth and death by the head of the family and in his or her absence, by any person within the family who has attained the age of majority.



Marriage by husband and wife both.



Divorce by husband or wife.



Migration by the head of the family if the entire family is migrating and if otherwise, by the person migrating.

25. Section 8 of the Birth, Death and Other Personal Events (Registration) Act, 1976.

26. Principles and Recommendations for a Vital Statistics System: Revision 3; Department of Economic and Social Affairs of the United Nations Secretariat, 2014; pp 3-4

27. Section 4 (1) of the Birth, Death and Other Personal Events (Registration) Act, 1976.

The Act also provides that if the event has occurred outside Nepal, the person having the duty to register the event shall register it within sixty days from the date of his or her returning back to Nepal.²⁸ The law also provides that the person having the duty to register the event may authorize any person to register the event.²⁹ In case there is no person having the duty to register the event of birth or death (head of the family or in his or her absence, any person within the family who has attained the age of majority), such information shall be registered by the person designated by Government of Nepal (hereinafter referred to as “GoN”) having published a notice in the Nepal gazette.³⁰

(iv) Government Bodies authorized to register vital events

The Act provides that GoN may, for the purpose of this Act, appoint or designate one Registrar (at the Center) and Local Registrars in the required number at each Village Body and ward of Municipality having published a notification in the Nepal gazette.³¹ The Act requires that events must be registered at the local registrar’s office.³² Though the Act and Rules do not specify to register the vital events at the permanent address of the concerned person, it has been practiced that the vital event has to be registered in their permanent address. In a large number of cases, the persons having the duty to register the event live far from their permanent address. In that situation, the person could not get his or her vital events registered. In order to register their vital events at the Office of Local Registrar other than the person’s permanent address, one needs to produce certificate of migration.³³ In exceptional cases, the person producing certificate that he or she has been living in a place other than permanent residence due to public service reasons, his or her events may be registered.

(v) Document to be produced for registering vital events

Since the Act aims at registering personal events of all persons living in Nepal, therefore, it is obvious that a proof of citizenship by the legal provisions is not

28. Section 4(2) of the Birth, Death and Other Personal Events (Registration) Act, 1976.

29. Section 4(3) of the Birth, Death and Other Personal Events (Registration) Act, 1976.

30. Section 4(4) of the Birth, Death and Other Personal Events (Registration), 1976.

31. Section 3 of the Birth, Death and Other Personal Events (Registration) Act, 1976.

32. Section 4(1) of the Act and Rule 5 of the Birth, Death and Other Personal Events (Registration) Regulation, 1977.

33. This is based on practice.

required to register vital events. The Birth, Death and Other Personal Events (Registration) Act, 1976 does not require citizenship certificate to register vital events. The Birth, Death and Other Personal Events (Registration) Rules, 1977 provides for Annexes containing forms to be filled in by the informer for registration of each of the five events. Citizenship certificate is not mandatory to register any of the vital events. However, each of those forms does contain a column requiring to mention the citizenship certificate no., issued date and district of the informer and of the concerned person if citizenship certificate was acquired (such as details of the newly born child in case of birth registration together with citizenship certificate no., date of issuance and district of both the parents; of the deceased in case of death registration; of the couple in case of marriage and divorce registration and of the persons migrating in case of migration registration). This is to note that the forms do not require any supporting evidence while registering such events, except in case of divorce (which requires court decision to that effect).

Subsequently, in the case of *Sabin Shrestha V Prime Minister and Office of the Council of Ministers, the Ministry of Federal Affairs and Local Development and others*,³⁴ under the applicant's demand to annul the provision of Birth, Death and other Personal Events (Registration) Rules 1977 that requires the citizenship certificate no. of the parents while registering the birth of the children, the Supreme Court had acknowledged the framework where a child shall be registered even if, either of the parents do not have the citizenship certificate. Additionally, MoFALD (one of the respondents) emphasized in their response that they have been registering the birth of the children whose parents did not acquire the citizenship certificate.

34. *Sabin Shrestha V. PM Office, MoFALD and Others*, Writ no. 069-WS-0039, decided on March 6, 2014 A.D.

(vi) Procedures to register vital events

Once information of happening of a vital event is received, the local registrar has to register such event as follows³⁵:-



To check whether or not the form filled in by the person giving the information is correct and to require him or her to get it corrected if it not correct;



In case the person coming for registration of an event is illiterate, to get his or her form filled in and to procure his or her thumb impressions on it.



Recently, the government has come with online registration to ease the process.

(vii) Fee and fine for late registration

The Act provides that if one comes for registration of an event after 35 days, the time limit set by the law (the first 35 days from the date of happening of the event), a nominal fee of Rs. 8/- has to be paid for registration of the event.³⁶ However, thereafter, fine is charged. If the event is not registered within 35 days and one comes to register it thereafter, a fine up to Rs. 50/- is imposed for registration of such event.³⁷

(viii) Vital Events Registration and Citizenship

As stated above, the personal events registration laws are based on the premise that every events of everyone within the country needs to be registered, irrespective of nationality and time-limit. The requirement to mention citizenship certificate no. of father or mother or of the concerned

35. Section 5(1) of the Birth, Death and Other Personal Events (Registration) Act, 1976.

36. Section 5(3) of the Birth, Death and Other Personal Events (Registration) Act, 1976.

37. Section 5(4) of the Birth, Death and Other Personal Events (Registration) Act, 1976.

person is only for record purpose and citizenship certificate as such is not required to be produced. In practice, requiring the name and citizenship information of the father and mother while registering an event, especially, the birth is discouraging and troublesome. Perception of Local Registrars is that birth registration per se would be the solid ground for claiming citizenship later on, therefore, it must be controlled to the extent possible. However, it should be noted that birth registration does not automatically guarantee for citizenship of Nepal. Birth registration gives recognition that the child was born in the specific country and the person exists legally. Linkages with various rights including citizenship are determined by concerned laws.

5. NEW INITIATIVES TAKEN BY GOVERNMENT



The government has come up with new initiatives for facilitating civil registration process. These initiatives include the following:-

i. Establishment of the Department of Civil Registration and software development

There was a pressing need of creating a dedicated central agency to deal with civil registration and vital statistics. Realizing the same, the Department of Civil Registration (DoCR) was constituted in October 2014 and formally inaugurated in March 2015. The Department has been assigned to manage and regulate the following³⁸ :-

- Vital events registration system (Birth, Death, Marriage, Divorce and Migration) and;
- The operation of social transfer schemes (elderly pension, single women, disability and ethnic minority supports and dietary benefits for children of Karnali zone and Dalit community, etc.) delivered through the local bodies.

The Department has started to improve its service delivery, record management and reporting system by introducing electronic working procedure. It has introduced software-based online civil registrations and social protection information system called Vital Events Registration System Program and Management Information System. (VERSP MIS). The Department is committed to strengthen Civil Registration System as well as Social transfer Schemes.³⁹

38. <http://docr.govnp/Home>

39. Ibid.

ii. Celebration of Vital Events Registration Week

The government has decided to celebrate the first week of the Nepali New Year (Vikram Samvat) as the civil registration week with special drive to register vital events and to launch public activities to raise awareness. It should further focus to motivate/encourage communities to visit government offices and register their vital events. Also, awareness among the people should be raised to realize that registering vital events is their duty and if failed, they will be deprived from various rights including legal identity, services and benefits from the government.

iii. Civil registration and school admission

Birth registration has been made mandatory to get school admission so as to compel the parents to undergo birth registration before admission of their children to school.⁴⁰ This needs to be carefully applied not to deprive the right to education from the children who do not manage to register their birth in spite of the efforts.

iv. Adoption of Civil Code, 2017

The Legislature-Parliament has recently adopted the Muluki Civil Code, 2017 which provides that within three months from the birth of a child, the father or mother has to get the birth registered with the authority designated by GoN having published a notice in the Nepal Gazette.⁴¹ After that time, a fine specified by GoN has to be paid for registering the birth. The concerned authority has to register the birth in the birth registration book maintained at the office. The registration book has to maintain the records of the name, surname, and date of birth, place of birth, names of parents and grandparents and their addresses as well.

It is also to be noted that the similar procedure was provided by Section 4 of the Birth, Death and Other Personal Events (Registration) Act, 1976, which

40. On November 15, 1996 the Local Development Ministry (MLD) issued a circular that instructed schools to require birth registration for school admission. This has since been reversed. Referring to the tenth plan and the government program to provide free primary education as well as to the Convention on the Rights of the Child, the MLD issued a new circular to all District Development Committees on December 3, 2003, informing the local registrars that children should not be deprived an education due to the lack of a birth certificate. However, many remain unclear on what is required and what is not and consequently, some schools continue to require birth certificates.

41. Section 113 of the Muluki Civil Code, 2017.

read: Information of birth and death within a period of 35 days at the office of the local registrar by the head of the family and in his or her absence, by any person within the family who has attained the age of majority has to be delivered.⁴² It is worth noting here that the Muluki Civil Code does not require citizenship certificate to be produced while getting the birth of a child registered. However, this is a general law and it could not supersede a special law that is the 1976 Act. This means that so far as the matters provided for by a special Act that is the 1976 Act, are concerned, the provisions of the new Code may not be applicable, and provisions of the Code will be applicable on the matters where the special law is silent.

v. Circulars reforming or clarifying policy and legal procedures

a. Birth registration of persons having no parents

In case of absence of parents to register birth, GoN decided that the elected local representatives and if such post are vacant, the officials of local government are under a duty to register such birth.⁴³

b. Birth registration of intersex child

In case of children with intersex, the government decided that whatsoever may be the biological structure of sexual organ of a child, registration of birth is his or her first right and that his or her sex shall be determined later on as per his or her choice.⁴⁴

c. Birth registration of child born in abroad and having no father traced

The form to be filled in for getting the registration of birth of a child contains a column of names of father and grandfather. However, in some instances, the name of father and of the grandfather is not known and registration gets complicated. Thus, a policy directive has been issued on September 30, 2010 that if the child has entered Nepal lawfully and if the person having the duty to getting the birth registered submits application to that effect, there is nothing against registration of his or her birth.⁴⁵

42. Section 4 of the Birth, Death and Other Personal Events (Registration) Act, 1976.

43. Nepal Gazette notification of Ministry of Local Development published on March 10, 2003.

44. Circular of Ministry of Local Development/GoN; dated June 24, 2007.

45. Circular of Ministry of Local Development/GoN; dated September 30, 2010.

d. Birth registration of adopted son and daughter

An unattended infant was found and one person adopted her as his daughter. Later on, question arose as to how to register her birth and whether or not the adopted father may register the birth. The government issued a circular to register births of such children as the adopted father or mother is the member of family of the concerned infant or child.⁴⁶

e. Birth registration of children in prisons

On the matter of registration of birth of a child born in a prison or of the child whose both parents are in prison, the same must be certified by the prison office and sent to the local registrar for registration. The Local Registrar shall have to register such birth.⁴⁷

f. Birth registration of children born to citizens who acquired citizenship by birth

Citizenship of Nepal is acquired by descent. But in a special case in the past, the citizenship Act 2006 provided for acquisition of citizenship to persons having born in Nepal. Confusion arose as to registration of birth of the children born to such persons before they acquire Nepali citizenship. Government decided to allow birth registration of such children showing the citizenship certificate of their parents.⁴⁸

g. Registration of birth in absence of father

After the decision of the Supreme Court, the Government issued a circular on January 26, 2006 directing the local registrars to register birth of a child, the address of whose father is not traced stating in the column of name and address of the father as “not traced.”

Though it was an initiative to execute the judgment, it seems to be stigmatizing to the concerned child in the sense that his or her father is “not traced.”

vi. Law reform initiatives being taken

In an interview with a national vernacular daily, the Director General (DG) of the Department of Civil Registration (DoCR) has lamented that they are

46. Circular of Ministry of Local Development/GoN; dated September 30, 2009.

47. Circular of Ministry of Local Development/GoN; dated May 5, 2013.

48. Ibid.

compelled to work under the framework of an old legal regime with a series of new circulars time and again.⁴⁹ DG has also informed that framework of new law to govern the matters of civil registration is already worked out and some works are yet to be carried out.

Features of the draft law

DoCR has prepared a draft to amend to some procedural measures contained in the Personal Events Registration Rules. Some of the major procedural measures proposed are as follows:-

- a) Designating local registrars in other agencies such as Embassies and missions abroad and Civil registration camps;
- b) Legalizing the electronic registration of vital events;
- c) Local Registrars to be made more responsible for safe keeping of records of vital events;
- d) Linking civil registration with Management Information System (MIS).

49. Interview with Director General Mr. Anil Kumar Thakur published in the Karobar National Daily dated July 12, 2017; Also published on <http://www.karobardaily.com/news/80666> visited on the same day.

6. ANALYSIS OF LAWS OF FOREIGN COUNTRIES ON VITAL REGISTRATION

Laws of other countries on vital registration were analyzed to capture good practices. The following specific Acts were analyzed:



Australia

Births, Deaths and Marriages Registration Act 1997



New Zealand

Births, Deaths, Marriages, and Relationships Registration Act 1995



United Kingdom

Births and Deaths Registration Act 1953



United States of America

Model State Vital Statistics Act, 1992



India

Registration of Births and Deaths Act, 1969



South Africa

Births and Deaths Registration Act 51 of 1992



Bangladesh

The Births and Deaths Registration Act, 2004

i. List of events registered

As per the Birth, Deaths and Marriages Registration Act, 1997 of Australia, birth, adoption, death, marriage, civil unions and civil partnerships are registered.⁵⁰ The Births, Deaths, Marriages, and Relationships Registration

50 . Births, Deaths and Marriages Registration Act 1997

Act 1995 of New Zealand register the birth, death, marriage, civil unions.⁵¹ The Births and Deaths Registration Act 1953 of UK registers birth, abandoned children, still births and deaths.⁵² Similarly, the Model State Vital Statistics Act, 1992 of USA registers births, foundlings, deaths, adoption and marriages.⁵³ The Registration of Births and Deaths Act, 1969 of India registers the births and deaths of occurred in their country.⁵⁴ The Births and Deaths Registration Act of 1992 of South Africa registers birth, abandoned or orphaned child and deaths.⁵⁵ The Births and Deaths Registration Act, 2004 of Bangladesh registers the birth and death events in their country.⁵⁶

ii. Informants for registration

Australia

A written notice after the birth of a child, whether alive or still, must be given by the responsible person to the registrar-general.⁵⁷ Here, responsible person means, if the child was born in a hospital or brought to a hospital within 24 hours after the birth, the chief executive officer of the hospital⁵⁸ or in any other case, the doctor or midwife responsible for the professional care of the birth parent at the birth. In case of a still birth, the relevant doctor must provide the notice.⁵⁹ The parents of the child are responsible to register the birth of a child.⁶⁰ If a child is a foundling, the person who has custody of the child is responsible for having the child's birth registered.⁶¹

New Zealand

Every birth in New Zealand must be notified and registered.⁶² A preliminary notice must be given after the birth of a child.⁶³ The preliminary notice must be given by the occupier of the hospital if a birth takes place during or immediately before the mother's admission to hospital.⁶⁴ If a birth did not take place during or immediately before the mother's admission to hospital,

51. Births, Deaths, Marriages, and Relationships Registration Act 1995

52. Births and Deaths Registration Act 1953

53. Model State Vital Statistics Act, 1992

54. Registration of Births and Deaths Act, 1969

55. Births and Deaths Registration Act 51 of 1992

56. The Births and Deaths Registration Act, 2004

57. Births, Deaths and Marriages Registration Act 1997, Section 5(1)

58. *Ibid*, Section 3(a)

59. *Ibid*, Section 4

60. *Ibid*, Section 8(1)

61. *Ibid*, Section 8(2)

62. Births, Deaths, Marriages, and Relationships Registration Act 1995, Section 5

63. *Ibid*, 5A (1)

64. *Ibid*, 5A (2)

the preliminary notice must be given by -

- A doctor, if he or she is present at the birth or
- A midwife, if he or she is present at the birth but a doctor is not present or
- The occupier of premises where the birth takes place or where the mother is admitted immediately after the birth, if neither a doctor nor a midwife is present.⁶⁵ Both the parents are responsible for notifying the birth of their child.⁶⁶ A guardian of a child other than a parent, or a person authorized by the Registrar-General may give the notification of birth if both parents have failed or refused to do so or the child's parent has failed or refused to do so.⁶⁷

United Kingdom

The father or the mother of the child is responsible to give the notification of birth. In case unavailability of the parents due to death or inability, a qualified informant of each other is responsible to notify the birth.⁶⁸ In case an abandoned child is found, the person who found the child may apply to the Registrar General for the child's birth to be registered.⁶⁹

United States of America

When a birth occurs in an institution the person in charge of the institution or his or her authorized designee shall obtain the personal data, prepare the certificate, and certify that the child was born alive at the place and time and on the date stated.⁷⁰ When a birth occurs outside an institution the physician in attendance at or immediately after the birth, or in the absence of such a person, any other person in attendance at or immediately after the birth, or in the absence of such a person or the father, the mother, or, in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred is responsible to notify for the registration of the birth.⁷¹

India

If birth took place in a house, residential or non-residential, the head of the house or, in case more than one household live in the house, the head of the

65. Ibid, Section 3

66. Ibid, Section 9

67. Ibid, Section 10

68. Births and Deaths Registration Act 1953, Section 2

69. Ibid, Section 3A (1)

70. Model State Vital Statistics Act, 1992, Section 7(b)

71. Ibid, Section 7 (c) (1)

household, the head being the person, who is so recognized by the house or the household, and if he is not present in the house at any time during the period within which the birth or death has to be reported, the nearest relative of the head present in the house, and in the absence of any such person, the oldest adult male person present is responsible for registration.⁷² If birth took place in a hospital, health centre, maternity or nursing home or other like institution, the medical officer in charge or any person authorized by him is responsible to register the birth.⁷³ If a child is born in jail, it is the responsibility of jailor in charge.⁷⁴ If in a choultry, chetrum, hostel, dharamshala, boarding house, lodging-house, tavern, barrack, toddy shop or place of public resort, the person in charge.⁷⁵ If any new-born child found deserted in a public place, the headman or other corresponding officer of the village in the case of a village and the officer in charge of the local police station.⁷⁶

It is the duty of the midwife or any other medical or health attendant at a birth, any other person whom the state government may specify in this behalf by his designation, to notify every birth or at which he or she attended or was present to notify the registrar.⁷⁷

South Africa

In the case of any child born alive, any one of his or her parents, or if the parents are deceased, any of the prescribed persons must give the notice of birth.⁷⁸

Bangladesh

The father or mother or guardian or the prescribed persons is responsible to provide information related to birth of child to the Registrar.⁷⁹

iii. Time Limitation

Australia

The time limitation for notifying the birth is 7 days for a live born child and 48 hours for a still-born child.⁸⁰

72. Registration of Births and Deaths Act, 1969, Section 8 (1) (a)

73. *Ibid*, Section 8 (1) (b)

74. *Ibid*, Section 8 (1) (c)

75. *Ibid*, Section 8 (1) (d)

76. *Ibid*, Section 8 (1) (e)

77. *Ibid*, Section 10 (1)

78. Births and Deaths Registration Act 51 of 1992, Section 9(1)

79. The Births and Deaths Registration Act, 2004, Section 8 (1)

80. Births, Deaths and Marriages Registration Act 1997, Section 5 (2) (b)

A person responsible for having the birth of a child registered must lodge a birth registration statement acceptable to the registrar-general with the registrar-general within 6 months after the day of the birth.⁸¹

New Zealand

The preliminary notice for birth must be given within the 5 working days after the birth.⁸²

United Kingdom

Information of birth must be given within 42 days after the birth.⁸³ The timer limitation for registering the birth is three months within which the registration is free of cost.⁸⁴

United States of America

The birth must be registered within 5 days after the birth.⁸⁵ Certificates of birth filed after 5 days, but within one year from the date of birth will also be registered.⁸⁶

India

The time limitation for registration of birth is within 21 days.

South Africa

After the birth of a child, notice must be given of the birth within 30 days after the birth of a child.⁸⁷

Bangladesh

The birth of a child must be registered within 45 days of the child's birth.⁸⁸

iv. Eligibility of registration

Australia

All the child who are born in ACT (Australian Capital Territory) are eligible for the registration of their birth.⁸⁹ Foundlings are also eligible for birth registration.⁹⁰ If a child is born in an aircraft during a flight to an airport in

81. Ibid, Section 10 (1)

82. Births, Deaths, Marriages, and Relationships Registration Act 1995, Section 5A (4)

83. Births and Deaths Registration Act 1953, Section 2

84. Ibid, Section 5

85. Model State Vital Statistics Act, 1992, Section 7 (a)

86. Ibid, Section 7 (h)

87. Births and Deaths Registration Act 51 of 1992, Section 9 (1)

88. The Births and Deaths Registration Act, 2004, Section 8 (1)

89. Births, Deaths and Marriages Registration Act 1997, Section 5 (1)

90. Ibid, Section 8 (2)

the ACT, the birth may be registered.⁹¹ If a child born outside Australia who is to become a resident of ACT is also eligible for their birth registration.⁹²

New Zealand

Every birth in New Zealand shall be notified and registered.⁹³ Foundlings are also eligible for birth registration.⁹⁴ Any child born outside New Zealand on an aircraft registered in New Zealand or a New Zealand ship or an aircraft or ship of the armed forces of New Zealand is eligible for his or her birth registration.⁹⁵

United Kingdom

The birth of every child born in England and Wales shall be registered.⁹⁶ Abandoned child is also eligible to be registered.⁹⁷

United States of America

Each child born in the States is eligible to be registered.⁹⁸ When a birth occurs on a moving conveyance within the United States and the child is first removed from the conveyance in this State, the birth shall be registered in this State.⁹⁹

India

Every child born in India is eligible for the registration of their birth.¹⁰⁰ Birth of any citizen outside India is also eligible for the registration of their birth.¹⁰¹

South Africa

If any child born alive in South Africa, the birth registration of that child is valid.¹⁰² If a child born outside South Africa whose father or a mother is a South African citizen, such child is eligible for birth registration.¹⁰³

Bangladesh

All the births in Bangladesh must be registered irrespective of race, religion, caste, clan or sex.¹⁰⁴

91. Ibid, Section 7 (3)

92. Ibid, Section 7 (2)

93. Births, Deaths, Marriages, and Relationships Registration Act 1995, Section 5

94. Ibid Section 7(2)

95. Ibid, Section 8

96. Births and Deaths Registration Act 1953, Section 1

97. Ibid, Section 3A (1)

98. Model State Vital Statistics Act, 1992, Section 7 (a)

99. Ibid, 7 (d)

100. Registration of Births and Deaths Act, 1969, Section 8

101. Ibid, Section 20

102. Births and Deaths Registration Act 51 of 1992, Section 9 (1)

103. Ibid, Section 13

104. The Births and Deaths Registration Act, 2004, Section 5 (1)

v. Accountability

Australia

Five Penalty Units which is equal to 792.85 AUD (applied from 1 July 2017 to 30 June 2018) is the fine to be paid if the time limitation of registration is crossed.¹⁰⁵

New Zealand

No such punishments found for late registration of birth but no registrar other than the Registrar-General shall register a birth notified late.¹⁰⁶

United Kingdom

No such punishments found for late registration of birth.

United States of America

The registration may be filed in a “Delayed Certificate” and the delayed certificate shall contain a summary statement of the evidence submitted in support of the delayed registration.¹⁰⁷

India

Any birth registered after the expiry of the period specified of its occurrence, shall be registered on payment of such late fee as prescribed.¹⁰⁸

South Africa

Where the notice of a birth is given after the expiration of 30 days from the date of birth, the birth shall not be registered, unless the notice of the birth complies with the prescribed requirements for a late registration of birth.¹⁰⁹

Bangladesh

If birth is not registered within the stipulated time mentioned, the birth can be registered later-on with payment of late fee.¹¹⁰

105. Births, Deaths and Marriages Registration Act 1997, Section 10 (1). Value of one penalty unit applied from 1 July 2017 to 30 June 2018 is AUD 158.57. Section 5(2) the value of a penalty unit is the amount fixed with respect to a financial year by the Treasurer by notice published in the Government Gazette. <http://www.dtf.vic.gov.au/Victorias-Economy/Economic-policy-and-guidelines/Indexation-of-fees-and-penalties>

106. Births, Deaths, Marriages, and Relationships Registration Act 1995, Section 16

107. Model State Vital Statistics Act, 1992, Section 9

108. Registration of Births and Deaths Act, 1969, Section 13 (1)

109. Births and Deaths Registration Act 51 of 1992, Section 9 (3A)

110. The Births and Deaths Registration Act, 2004, Section 13

7. RESTRUCTURING OF LOCAL LEVEL GOVERNANCE AND CIVIL REGISTRATION

With the promulgation of the Constitution of Nepal in September 2015, the country has started its journey to federal structure of three levels of governance. Though the Constitution entrusts the powers of carrying out functions of civil registration and vital statistics to all levels of governance as concurrent power,¹¹¹ the present legal structure requires that these functions have to be carried out by local levels.¹¹² The functions related to citizenship and passports have been assigned solely to the federal government.¹¹³ The policy directives issued by the Ministry of Federal Affairs and Local Development (MoFALD) on March 13, 2017 refers to the concurrent list of the Constitution and entrusts all powers to the local levels to carry on works relating to civil registration. As the circular provides, all personal events have to be registered at the ward office of the concerned local level and monthly report thereof to be sent to the center for central database. This circular also contains different formats of the forms for reporting of personal events which are precise and short compared to the earlier forms. The MoFALD through another circular dated May 28, 2017 requires that the local registrar (Ward Secretary) who carries out functions relating to personal events registration must be permanent employee; and that in absence of the local registrar, the center of a Rural Municipality or Municipality must carry out this work.

111. Serial No. 11 of Annex 9 of the Constitution.

112. Civil registration Act, 1976 and Local Level Operation Order, 2017.

113. Serial No. 22 of Annex 5 of the Constitution

8. GAPS AND WEAKNESSES IN THE CIVIL REGISTRATION LAWS

Being the first ever law in Nepal dealing with civil registration, the 1976 Act was marked as pioneering law, however, it is marred by a number of gaps and shortcomings which need to be carefully analyzed so as to pave the way for future reform process. Major gaps and shortcomings are as follows:-

i. Requirements of supporting documents

The law requires submission of a duly filled in form in the prescribed format for registration of an event. One may take it logical to require identity document of the person going to get an event registered. But it is not normally expected to require other documents to verify the relationship. Especially in case of birth registration, local registrar in practice requires citizenship certificate of father by which it is difficult for single mothers to get the birth registered. Though the Supreme Court has clearly ruled that the law has not made any classification as to which types of births have to be registered and which types not, all types of births are required to be registered and ordered the concerned local register to register the birth of a child whose mother could not name the father of the child. The Court also directed the government to pave all the ways clear if there are procedural anomalies surrounding the enjoyment of this basic right of child.¹¹⁴

The Ministry of Federal affairs and Local Development (MOFALD) issued a circular on 13 March 2017 on civil registration issues including changes in forms for registering vital event. Contrary to the provisions in Act and Rules, these new forms require citizenship certificate no. of father and mother in cases of Nepali and passport no. in case of foreigners for registering

114. Deepti Gurung V. GoN Writ No 070-WO-0932 decided on February 9, 2015 A.D.

vital events. Making citizenship certificate and passport mandatory for registering vital events exclude those who do not have it.

ii. Civil registration system lacks right-based approach

The Act of 1976 takes civil registration as a stand-alone function of the state to register personal events for the purpose of maintaining records of persons and families. The Act requires collection of a family details form and sending it to the center for data collection.¹¹⁵ It casts duties on the family and concerned persons to get their events registered and require the local registrar to register events if such events are submitted for registration. The Act lacks right-based approach as it does not provide measures for motivating or facilitating people to get civil registration as soon as possible. It fails to provide provision of making complaint in case a local registrar does not register any event or causes prolonged delay. Furthermore, the Act does not make the registration of vital events mandatory.

iii. Requirement of registration of events at a concerned local level

Though the Act and Rules do not specify to register the vital events at the permanent address of the concerned person, it has been practiced that the vital event has to be registered in their permanent address. This mandatory requirement of registering an event at its permanent location means that an event could not be registered at any place other than the permanent place of one's residence.¹¹⁶ In normal course of events, it is practical and reasonable to require a person to get his or her vital events registered at a nearby Local Registrar's Office. However, this is not the case all the time, especially in a society like ours where population is highly mobile in search for better opportunities of living such as employment, education and medical services. As a large number of peoples are living far from their permanent addresses, it is quite unreasonable for them to be present at the local registrar's office belonging to their permanent address for registration

115. Section 8 of the Act and Rule 4 of the Regulation.

116. Section 4(1) of the Act and Rule 5 of the Vital Events Registration Regulation, 1977.

of vital events, which may be quite far from their place of current living, or to require them to produce migration certificate.

iv. Registration by relatives not allowed

The Act provides that primary duty to register information of birth or death lies with the head of the family and in his or her absence, with other member of the same family having attained the age of majority. In absence of such family member as well, such event has to be registered by the person designated by the Government.¹¹⁷ Here, the Act does not allow any relatives not living in the same family to register information of such event. Rather, it allows the person designated by the government to register events. Though the Act allows for delegating the authority to register vital events to any person willed by the head or other family member with the age of majority, it does not allow other family members, if any of them are not living together as a member of the same family and is living separately.

Children's Act, 1992 also states that if father and mother as well as any family members are not alive or unknown, the person or an organization who is taking care of the child should give the name to the child.¹¹⁸

Denial to register events by close relatives living separately or care takers does not help to fulfill the constitutional guarantee and government's policy of universal coverage of birth registration.

v. No punishment for erring employees

The 1976 Act has a scheme of offences and punishment for anyone providing false information while registering vital events or collecting family

117. Section 4 of the Act.

118. Section 3 of the Children's Act, 1992 reads as follow:

Right to name and determination of date of birth of Child:

- (1) From birth, every child shall be granted a name according to the religion, culture and tradition by his father, if the father is not available by his mother and if the mother is also not available by any other member of his family. In cases where the father, mother or any other member of his family is not alive or their whereabouts are not known, the person or organization bringing up the Child shall give a name to such Child.
- (2) In cases where the date of birth of any child is not traced, the person or organization bringing up the Child shall, in consultation with a registered medical practitioner, determine date of birth of the Child. Unless otherwise proved, the date so determined shall be deemed to be the date of birth of the Child.

data or for anyone who impedes or obstructs the registration process. However, there is no scheme of punishment against an employee who works carelessly or who asks submission of additional documents or fulfillment of additional procedures not envisaged by the law on civil registration. If risks of being liable to such act could be created, non-cooperative attitude among employees would be eliminated.

vi. Free and timely birth registration

Birth must be registered absolutely free of costs. In addition, concerned persons should be encouraged to register the birth within the specified timeframe. Registration must be made compulsory so that the parents or guardian refraining to register the birth even after lapse of certain period must be penalized. However, while doing so it is to be noted that the parents who have struggled or put an effort to register the birth shall be relieved.

vii. Referral mechanism to a higher authorities

There must be referral mechanism to the higher authorities if birth and other vital events registration is delayed or denied by the concerned authority. Such situation must not be linked to disincentives.

viii. No provision for providing prompt civil registration to persons in emergency

The current law does not have any provision to make available prompt civil registration services to persons in difficulties such as displaced persons, persons who have been victims of various disasters, children not fostered/ taken care any and could not have registered their events or have lost their civil registration documents.

9. RECOMMENDATIONS

A number of actions need to be taken for enhancing coverage of birth registration and other vital events in Nepal. Given the federal structure of the country, these recommendations need to be segregated as those to be implemented by local level government, by provincial government and those by the central/federal government. Since citizenship and passport related functions are under the exclusive jurisdiction of the central level, recommendations related to them must be taken care of by the central/federal level governments. However, as vital events registration is one of the functions falling under the concurrent list containing functions to be carried out by Central, provincial and local level governments, therefore, local and provincial level governments must be responsible to implement all recommendations related to vital events registration as such and the central government must be held responsible to creating a central database of events registration so as to ease itself to relate them with citizenship and passport distribution.

i. Central/Federal Government

- Enact new vital events registration Act with rights based approaches, ensuring universal coverage of civil registration most importantly the birth registration, regardless of the legal identity of the parents, in line with the Constitution of Nepal and Nepal's human rights obligations;
- Reinforce legal provisions categorically establishing civil registration system as the solid basis for creating legal identity of a person.
- Include the events of fetal death, judicial separation, annulment, recognition and legitimization of adoption- both in-country and inter-country- under the ambit of the civil registration in addition to birth, death, marriage, divorce and in-country migration.

- Make free and timely registration of vital events by stressing it as both a parental duty and state responsibility. Conjointly, the Parents should be made liable and accountable to register the birth of their child. However, while doing so it is to be noted that the parents who have struggled or put an effort to register the birth shall be reprieved.
- Penalize the official who causes delay or denies to register vital events or asks for additional documents not expressly required by laws. In addition, there should be a clear provision on a proper grievance redress mechanism.
- Department of Civil Registration in coordination with Ministry of Health should initiate birth registration in birthing center. If there is problem of name of newborn within certain days (11-20) days, parents can visit ward office and give name of the newborn and can acquire the birth registration certificate.
- The new Act to be enacted must provide for :
 - Creation and maintenance of computer databases for recording family details and the registration of personal events in all the local levels and at the districts, along with adequate back up facilities. Taking into consideration the report submitted to the MoFALD by the civil registration System Strengthening Taskforce, these databases should also be linked with those of the MoFALD, Ministry of Home, Ministry of Health and Population and the Central Bureau of Statistics (CBS).The legal provisions should provide maintaining data privacy and protection as well as efficient data management which will allow avoiding duplication of registration with altered details.
 - Establishing a referral mechanism to higher authorities if birth registration is delayed or denied by the concerned authority. Such situation must not be linked to disincentives.
 - Having special procedures for making available prompt civil registration services to persons in difficulties such as displaced persons, children not in foster or institutional care, persons who have been victims of various disasters.

- Allow registration of vital events to be registered either at the permanent address or place of usual residence or at the place of event.
- Allow relatives or child welfare offices to register the vital events:
- Enact/amend the civil registration laws to allow relevant relatives not living in the same family or the child welfare offices to register birth registration if required.
- Make sure that children born out of sexual violence have birth registration by child welfare office if the mother doesn't want to register the child.

ii. Local and Provincial Level Governments

a. Legal Reforms

- Enact Provincial and Local Level law to make Provincial and Local level government more accountable to maintain accurate and timely civil registration.
- Allow registration of vital events in bilingual with local languages.
- Develop a codified version of all laws, precedents declared by courts and policies and circulars relating to vital events registration and disseminate them to all local registrars on time.
- A system of mobile registration should be introduced in order to receive maximum civil registration. For this, mobile registry teams must be sent to schools, industries, hat, melas and child-focused public health programs such as Immunization Day and to the targeted communities which have lower rate of access to civil registration document.

b. Procedural Reforms

The following reforms have been recommended for the current civil registration procedures in order to create a more effective and smooth functioning atmosphere for the civil registration process at provincial and local levels.

- Ensure that Directives and Circulars are amended according to the enacted/amended laws to ensure consistent application of civil registration laws.

- Ensure to put the proper grievance redress mechanism in place.
- Remove procedural requirement of father's citizenship certificate for birth registration to be consistent with the act and to ensure gender equality.
- Simplify the Birth Registration Procedure. The column requiring details of father or mother's citizenship certificate should be deleted, rather it can demand for evidence from birth delivering points.
- Ensure in the rules and directives that requirement of supporting document(s) e.g., requirements to submit clearance of house/land taxes, should be minimal in order to avoid unnecessary administrative and procedural burdens.
- Gradually make it mandatory to produce the proof of birth issued by the hospital/health facility where child was born or health check-up/medical report in case the child was born outside health facility with a view to protect children from undocumented and irregular adoption or custody.
- Ensure consistency in the application of law and regulations. Adopt consistent procedures by framing mandatory guidelines regarding the requirement of supporting documents for the registration of vital events in order to ensure universal coverage of civil registration regardless of the legal identity of the parents.
- Appoint dedicated local registrars at the ward level.
- Use civil registration certificates and data to receive and provide various government services and benefits including social protection/child grant etc. based on the set procedures.
- Use bilingual with local languages for filling in the application forms for civil registration.
- Pay attention to ensure the implementation of the citizen's charter to empower persons to assert for themselves the right to provisions stated in the citizen's charter.
- Introduce a system of flexible time i.e. morning or evening to facilitate the civil registration system.
- Mobilize mobile camps for speedy and easy registration of personal events at doorsteps of people.

- Upgrade the quality of paper used for certificate of vital events registration and introduce a card instead of the letter format of the certificate
- Establish outlets with information technology (IT) facilities in certain public places within every local level so that even the persons not familiar with IT may register their events online.

iii. Education and Awareness

- Launch awareness raising activities including importance of CRVS and information on how to access the registration services such as media campaigns, the printing and distribution of posters, street dramas, mass meetings, and so on in national as well as local languages of particular communities on importance of civil registration to motivate people to visit registrar's office and register the vital events rather than government to visit communities to register vital events. This is crucial to change people's perception and behavior.
- Ensure through legal provisions and directives that comprehensive training is provided to the concerned officials on the provisions of the Civil Registration laws and procedures so that they take actions according to the laws to achieve the universal coverage of civil registration.



Sharing and consultation meeting with DoCR on the findings of Legal Analysis of the Civil Registration Laws of Nepal on Nov 14, 2017.



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