

Chapter

8

Inclusion of Women & Children

Why it is important: All members of a country's population must have access to civil registration and identity documents. Civil registration of birth establishes one's legal identity, while death registration safeguards certain rights and benefits for the deceased's family, such as inheritances, pensions, or widows' rights. Possession of a national identity document is essential in order to benefit from public and private sector services, and it is the gateway to exercising one's human rights. Nevertheless, in many countries women and children face unique challenges in registering their vital events and obtaining identity documents, which can prevent them from accessing services and benefiting from the full spectrum of their legal rights. Laws that create barriers to civil registration and obtaining identity documents, or fail to foster inclusion for women and children, must be reformed so that all individuals can exercise their human, social, cultural, and economic rights equally within society.

Introduction

A well-functioning civil registration system must be continuous, permanent, compulsory, and universal.¹ Similarly, a national identity management system must be continuous, permanent, and universal.² In keeping with the principle of universality, it is important that *everyone* has access to civil registration and identity registration services and documents.

Yet, some populations – including women and children – may face unique challenges in accessing these services. In fact, 45 percent of women in low-income countries have no way to legally prove who they are,³ meaning they lack both a birth certificate and a national ID document. In some contexts, access to registration services may be limited by social and cultural norms in a way that can disproportionately affect women and children. For example, in settings where women are the primary caregivers, they may be unable to leave their home (and small children) during government office business hours. In some cultural contexts, women are restricted from traveling alone (unaccompanied by a man), which affects their ability to access registration services. The legal framework itself may also present a barrier. For example, birth registration processes that require women to produce a marriage certificate or provide paternal information may prevent a single mother from registering her child's birth. Low literacy rates and lack of knowledge of legal rights and processes may also prevent women and children from accessing civil registration services.

The benefits of civil registration and proof of legal identity for women and children are many. A birth certificate can promote the realization of a child's right to education and can prevent childhood marriage, especially for girls. Possession of a marriage and death certificate can help widows secure their rights to property, and possession of a divorce certificate can help divorced women protect their rights to property and custody of children. Adult identity documentation can enable women to gain access to a range of opportunities and services, helping to overcome gender gaps that exist in such areas as education, formal sector employment, business ownership, access to credit, land ownership, and political participation.⁴ Complete civil registration enables the production of vital statistics, which can inform administrative decision-making and public health interventions regarding women and children. In addition, inclusive civil registration data can help governments provide targeted assistance to women and children, and create informed and effective social welfare programs, family planning services, maternal and child health interventions, as well as gender-specific public health interventions.

Conversely, barriers to civil and identity registration services can have dangerous and consequential impacts on women and children. Children without birth registration are excluded from social protections and entitlements and are more vulnerable to trafficking, child labor, military recruitment, child marriage, and exploitation. Their vulnerabilities may extend into adulthood if they are unable to access a national ID card. Women without identity documents may be unable to open a bank account, access credit, enter the formal economy or access higher education.

Strengthening legal frameworks can help foster inclusive civil registration and identity management systems that respond to the needs of women and children, result in complete and universal registration, and enable the provision of government services and the generation of timely and accurate vital statistics.

I. Birth Registration

1. Universality: Nationality and Citizenship

Best Practice: The birth of every child within the territory of a country must be registered without discrimination on any basis. A country's obligation to ensure that registration is available to everyone resident in the country (the

¹ U.N. Principles and Recommendations for a Vital Statistics System, Revision 3, 2014, paragraph 293.

² U.N. Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management, 2019, paragraph. 24.

³ Aryal, S, Castro, J.L., It's Time to Start Counting Everyone, The ASEAN Post, 4 December 2021, available at: <https://theaseanpost.com/article/its-time-start-counting-everyone>.

⁴ J.C. Knowles, G. Koolwal, Gender Issues in CRVS and Access to Adult Identity Documentation: Report to the UN Foundation under the Data2X Initiative, 2016, page 3, Box 1.

principle of universality) includes the obligation to register the birth of a child regardless of the nationality or citizenship of the child or their parents.

The International Covenant on Civil and Political Rights⁵ (Art. 24) and the Convention on the Rights of the Child (CRC)⁶ guarantee a child the right to be immediately registered after birth (Art. 7). States must respect this right “irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status” (CRC, Art. 2.1). Accordingly, the birth of a child within the territory of a country must be registered regardless of the nationality or citizenship of the child or their parents. Some countries allow citizenship to pass to a child only through the father. This practice violates the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW).⁷ However, even if such laws are in effect, it should not affect the ability or right to register the birth of a child. Consequently, parents should not be required to present proof of citizenship or nationality in order to register the birth of their child if they do not possess such documents. While information on nationality or citizenship, or lack thereof, may be collected for legal and statistical purposes, no child should be denied birth registration based on the citizenship or nationality of the parents. This applies to stateless individuals as well: the lack of a nationality or citizenship should not prevent or complicate birth registration.

Birth registration does not confer citizenship or nationality, which is determined based on a country's constitution and laws. However, birth registration proves where a person was born and who their parents are – key pieces of information needed for establishing nationality. Consequently, birth registration is key to preventing statelessness.⁸

Guidance: Answer the question below. In the comments section, describe any barriers to birth registration based on any characteristics of the parents, particularly focusing on citizenship or nationality.

- a. **Does the legal framework require birth registration for every child born within the territory of the country, including situations where one or both of the child's parents are not citizens or nationals of the country?** Specifically address situations where one or both parents are stateless, as well as situations where one or both parents are foreign nationals.

Citations:

Comments:

2. Informant

Best Practice: The informant is the person who is legally required to report the occurrence and details of a vital event within the prescribed time limit.⁹ The role of an informant is important because the registrar can only register a vital event on the basis of the informant's declaration (which can be made verbally or in writing, and in person or online).¹⁰ To increase birth registration completeness and timeliness, it is best practice to place responsibility on the health sector, as the informant, to report births to the civil registrar. However, if the law

⁵ International Covenant on Civil And Political Rights, available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>.

⁶ Convention on the Rights of the Child, available at: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

⁷ Convention on the Elimination of all Forms of Discrimination Against Women, Article 9(2), available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx>.

⁸ UNHCR/UNICEF, *Convention on the Rights of the Child Quick Reference Guide Statelessness and Human Rights Treaties*, page 1, available at: <https://www.unhcr.org/ibelong/wp-content/uploads/UNHCR-CRC-02-UNHCR-UNICEF.pdf>.

⁹ U.N. Principles and Recommendations for a Vital Statistics System, Revision 3, paras. 349, 356.

¹⁰ U.N. Principles and Recommendations for a Vital Statistics System, Revision 3, para. 351.

designates the parent(s) of a child as the informant, the law should allow *either* the mother or the father, acting on his or her own, to serve as the informant.¹¹

As discussed in Chapter 3, when a live birth occurs in a health facility, the most effective approach is to designate the head of the health facility as the primary informant.¹² Even when a live birth occurs in the community, many countries find it effective to designate the birth attendant as the primary informant.¹³ (See Chapter 3, Section 4.) Designating the health sector as the informant helps to ensure that all live births that occur under the supervision of a health professional are reported in a timely fashion to the registrar without discrimination. This also removes the burden of reporting births from parents who are busy with their newborn baby.

Nonetheless, many countries designate the parent of a child as the primary informant for a birth. In contexts where the parent is the informant, the law should allow either the mother or the father to report the birth to the civil registrar, without preference for one over the other.¹⁴ The law should not require both parents to be present or involved in the birth registration process. This ensures that all mothers, regardless of their marital status or the paternity of the child, can report their child's birth to the civil registrar.

Some countries do not allow women to register births.¹⁵ Other countries list the father as the primary informant, and may list other male relatives as alternative informants with preference over the mother. These types of provisions may prevent a mother (on her own) from registering her child. This does not comply with international best practice and these types of barriers to civil registration should be removed from the law.

Guidance: List who can serve as the informant of a birth. In the comments section, analyze whether this list in any way prevents or hinders a mother, on her own, from registering the birth of her child.

- a. **State the informants, in order of priority, for a birth that occurs: 1) in a health facility, and 2) at home or in the community.** Specifically address whether a mother (on her own) may register the birth of her child.

Citations:

Comments:

3. Birth Registration For Children Who Live Or Work On The Street Or Who Have Little/No Connection To Their Parents.

Best Practice: States should ensure that free, accessible, simple and expeditious birth registration and identity documents are available to all children of all ages. This obligation extends to children who are orphaned, abandoned, working or living on the streets, or who otherwise have little or no connection to their parents.¹⁶

Children who work or live on the street are a diverse group. For example, some children live on the streets all the time, others only occasionally or seasonally, while others move between home, the street and welfare shelters.

¹¹ Sex Discrimination in Birth Registration, UNHCR/UNICEF, 2021, page 15, available at: <https://reliefweb.int/report/world/background-note-sex-discrimination-birth-registration>.

¹² U.N. Principles and Recommendations for a Vital Statistics System, Revision 3, para. 350.

¹³ U.N. Guidelines on the Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, paras 257, 312, 318.

¹⁴ Sex Discrimination in Birth Registration, UNHCR/UNICEF, 2021, page 15, available at: <https://reliefweb.int/report/world/background-note-sex-discrimination-birth-registration>.

¹⁵ Sex Discrimination in Birth Registration, UNHCR/UNICEF, 2021, page 8.

¹⁶ United Nations, Office of the High Commissioner on Human Rights (UN OHCHR), Protection and promotion of the rights of children working and/or living on the street, paragraph 67, available at: <https://www.ohchr.org/Documents/Issues/Children/Study/OHCHRBrochureStreetChildren.pdf>.

Some retain strong links with their families, while others have lost all contact.¹⁷ A variety of factors may contribute to a situation where a child is connected to the street. Most families of street-connected children have experienced persistent discrimination, poverty and social exclusion within societies where inequality is rampant. While many children who live or work on the street are from families that can be described as fragile, violent or unstable, orphaned or abandoned children are more unusual.¹⁸

In countries where the responsibility to register the birth of a child falls on the parents, street children are at increased risk of not having their births registered. Street children may have little or no connection to their parents. Even if a street child does have a connection to their parents, their parents may face challenges of their own in registering the birth of their child due to, for example, lack of identity documents, low literacy skills or lack of knowledge of the process.¹⁹ A street child who lacks birth registration will endure the negative consequences of this for the rest of their lives, as they may be unable to attend school, obtain identity documents, apply for governmental assistance, enroll in health care, and take part in the formal economy.

In order to ensure that all births in a country are registered, the UN Office of the High Commissioner for Human Rights (UN OHCHR) “recommends specialized support for children in street situations. To this end, States should promote and support child-centered, tailor-made interventions for children whose connections to family, community and wider society have been weakened.”²⁰

For purposes of civil registration, children with connections to the street should be distinguished from orphaned children or foundlings who are in the care of state institution. If a child is under the care of a state institution, that institution should be responsible for ensuring that the birth of the child is registered. However, as recommended by the UN OHCHR, civil registration agencies should consider ways to promote and support specialized procedures or programs to ensure that street children who live independently have their births registered. When developing these programs, care should be taken to ensure that a child’s birth is not registered multiple times.

To this end, the legal framework should empower the civil registration agency or local civil registrars to develop innovative solutions to facilitate the birth registration of children with street connections who live independently. Some countries have increased rates of registration of street children through mobile outreach and drop-in centers, where civil registrars and social workers can provide direct support to alleviate some of the difficulties street children experience in meeting the requirements and fulfilling the procedures of birth registration.²¹ Civil registration agencies might also consider allowing the registration of a child without parental information, where parental information is unknown.

Guidance: Answer the question below and describe any special programs or procedures to help street children and other children and adolescents who live independently register their own births. You may need to discuss this issue with the National Registrar or local civil registrars, because these programs may not be explicitly discussed in the law. However, the law should empower registrars to implement such programs.

- a. **Does the law empower the civil registration agency or local civil registrars to implement programs or procedures to facilitate the birth registration of children with street connections who live independently?** Describe any such programs or procedures.

¹⁷ Consortium for Street Children, Submission to the UN Office of the High Commissioner for Human Rights’ report on the right of the child to birth registration, November 2013, paragraph 2.1, available at: <https://ohchr.org/Documents/Issues/Children/BirthRegistration/CSCsubmission.pdf>

¹⁸ United Nations, Office of the High Commissioner on Human Rights (UN OHCHR), Protection and promotion of the rights of children working and/or living on the street, paragraph 16.

¹⁹ Consortium for Street Children, Submission to the UN Office of the High Commissioner for Human Rights’ report on the right of the child to birth registration, November 2013, paragraphs 3.1 – 3.3.

²⁰ United Nations, Office of the High Commissioner on Human Rights (UN OHCHR), Protection and promotion of the rights of children working and/or living on the street, paragraph 68.

²¹ Consortium for Street Children, Submission to the UN Office of the High Commissioner for Human Rights’ report on the right of the child to birth registration, November 2013, paragraph 4.3.

Citations:

Comments:

- b. In the case of orphaned or abandoned children under the care of a state institution, is the institution responsible for ensuring the birth registration of the child?**

Citations:

Comments:

4. Unmarried Parents / Paternal Information

Best Practice: All live births that occur within the territory of a country must be registered. The marital status of a child's parents, or the lack of information about the father of a child, must not prevent or hinder birth registration.²²

Proof of marriage should not be a prerequisite to birth registration.²³ Civil registration laws that require a parent to present a marriage certificate in order to register the birth of a child will prevent unmarried parents or single parents from registering the birth of their child. While it is appropriate to collect information on whether the parents of a child are married for statistical purposes, the lack of ability or willingness to prove marriage should never prevent the registration of a child. All births should be registered irrespective of the marital status of the parents involved.

Unmarried parents and their children must be treated equally to married parents and their children. Unmarried parents should not be subject to additional documentary requirements not placed on married parents. For example, some countries require an unmarried parent to obtain a court order before registering the birth of their child or require a police report stating that the child was the product of sexual violence.²⁴ These types of requirements create barriers to birth registration and decrease birth registration rates. Further, they violate a country's obligation to register all children born in the territory of the country without discrimination.

Under Article 7 of the CRC, a child "shall be registered immediately after birth" and has "as far as possible, the right to know and be cared for by his or her parents." While it is preferable that information on both parents be recorded during the registration process, birth registration must not be denied if the mother cannot or chooses not to name the father, or if the father refuses to acknowledge the child.²⁵

In addition, criminal codes that criminalize birth out of wedlock should be reformed. These laws only discourage an unmarried parent from registering the birth of their child.

Finally, the birth certificate (or certified copy of the extract of the birth register) should not display information on marital status. In some countries, birth certificates state the marital status of the child's parent(s) at the time of birth, thus labeling the child as "legitimate" or "illegitimate." This can stigmatize a child and subject them to life-

²² UN Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management, paragraph 292.

²³ Sex Discrimination in Birth Registration, UNHCR/UNICEF, 2021, page 15, available at: <https://reliefweb.int/report/world/background-note-sex-discrimination-birth-registration>.

²⁴ Sex Discrimination in Birth Registration, UNHCR/UNICEF, 2021, page 10, available at: <https://reliefweb.int/report/world/background-note-sex-discrimination-birth-registration>.

²⁵ UN Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management, paragraph 292.

long discrimination. Therefore, countries that follow this practice should revise their birth certificate forms (and laws, where applicable) to remove the field regarding the marital status of parents from the birth certificate.²⁶

Guidance: Answer the questions below regarding information and documentary evidence *required* to register the birth of a child. In answering this question, remember that information *required* for birth registration for legal purposes (e.g., name, sex, date and place of birth) is different from information that is collected for statistical purposes *if available*. See Chapter 8 on Vital Statistics for more information on statistical topics.

- a. Is proof of marriage *required* in order to register the birth of a child?** Specifically address whether a parent *must* present a marriage certificate when registering a child.

Citations:

Comments:

- b. Are there any additional requirements placed on an unmarried parent in order to register a child** (such as a court order or police report)?

Citations:

Comments:

- c. Is paternal information *required* in order to register the birth of a child?**

Citations:

Comments:

- d. Do laws criminalize birth out of wedlock?** (Note: to answer this question, consult the criminal code).

Citations:

Comments:

- e. Is the marital status of the parents displayed on the birth certificate?**

Citations:

Comments:

²⁶ Sex Discrimination in Birth Registration, UNHCR/UNICEF, 2021, page 15, available at: <https://reliefweb.int/report/world/background-note-sex-discrimination-birth-registration>

5. Parental information/Right to know parents

Best Practice: The name of the mother and father of the child (if known and acknowledged) must be recorded in the register and on the birth certificate, regardless of whether proof of marriage is presented to the civil registrar.²⁷

Article 7.1 of the CRC states that a “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.*” In some countries, a child born to unmarried parents is registered using false names for the parents and/or the child, or with the parents’ names omitted from the register and/or birth certificate entirely.²⁸ These types of provisions violate the CRC and other international human rights law. The connection to each parent must be shown, if known, not only because the child has a right to know his or her parents but also because the connection to each parent may be important to establishing the child’s nationality.

Note that the *right* to name both parents in the birth register and birth certificate does not conflict with the principle discussed above that the name of the father should not be *required* in order to register the birth of a child. The right to name both parents applies where the names of both parents are known and the (unmarried) father acknowledges paternity.²⁹

Guidance: Answer the question below. In the comments section, describe any registration provisions that prevent or hinder the recording of both the mother’s and father’s names.

- a. Does the legal framework provide for the recording of the names of the mother and father, regardless of proof of marriage (in cases where the parental connection is acknowledged)?

Citations:

Comments:

6. Parents Who are Minors

Best Practice: The law must permit birth registration regardless of the age or minor status of the child’s parents. The law should not require that the minor parent be accompanied by a parent, guardian, or legal representative.³⁰

In some countries, laws require mothers who are minors to be accompanied by a legal representative to register the birth of their child.³¹ This can act as a deterrent or a barrier to birth registration, as the mother may be unaware of this requirement, or unable or unwilling to request the presence of their parent or legal guardian.

Some countries require civil registration offices to report cases of mothers who are minors to the prosecutor’s office, which may disincentivize an underage mother from registering a birth in countries where parents serve as

²⁷ Sex Discrimination in Birth Registration, UNHCR/UNICEF, 2021, page 13, available at: <https://reliefweb.int/report/world/background-note-sex-discrimination-birth-registration>.

²⁸ Sex Discrimination in Birth Registration, UNHCR/UNICEF, 2021, page 10, available at: <https://reliefweb.int/report/world/background-note-sex-discrimination-birth-registration>.

²⁹ In most countries, an unmarried father must voluntarily acknowledge the child before being recorded in the register. If the father does not voluntarily acknowledge the child and a court determines that he is the father, the court may order the father’s name to be recorded upon application by the mother.

³⁰ Sex Discrimination in Birth Registration, UNHCR/UNICEF, 2021, page 12, available at: <https://reliefweb.int/report/world/background-note-sex-discrimination-birth-registration>.

³¹ Sex Discrimination in Birth Registration, UNHCR/UNICEF, 2021, page 12, available at: <https://reliefweb.int/report/world/background-note-sex-discrimination-birth-registration>.

the informant.³² To avoid this situation, civil registration information should be kept confidential (a key principle of civil registration³³) and registrars should not be required to report to prosecutors if a minor registers the birth of their child.

Other provisions in the civil registration law may not expressly mention minors but might impact a parent who is a minor. For example, some countries require the parent(s) to present a national ID card in order to register a birth. However, a minor parent may be below the age at which a national ID card can be obtained. Therefore, civil registration laws must make exceptions to these rules for minors (and others who do not have a national ID card). Legal provisions that contain barriers and disincentives such as these should be revised.

Guidance: Answer the questions below. In the comments section, analyze how provisions in the law might prevent or hinder a minor parent from registering the birth of their child.

- a. Does the civil registration law permit a parent who is a minor to register the birth of their child without the consent or accompaniment of their parent, guardian, or legal representative?**

Citations:

Comments:

- b. Must a parent present a national ID card in order to register the birth of their child? If so, is there an exception or alternative procedure for a parent who does not have an ID card (because they are a minor or otherwise lack an ID card)?**

Citations:

Comments:

- c. Do any other laws or requirements (e.g., in the criminal code) present any deterrents, disincentives or barriers for a parent who is a minor to register the birth of a child?**

Citations:

Comments:

II. Death Registration

7. Informants

Best Practice: Ideally, the legal framework places responsibility on the health sector, as the informant, to report deaths to the civil registrar. However, if the law designates family members as the informant, the law must list the wife, female children, mother (for deceased children) and other female relatives of the deceased as equal to other male family members in the informant list.

³² Sex Discrimination in Birth Registration, UNHCR/UNICEF, 2021, page 12, available at: <https://reliefweb.int/report/world/background-note-sex-discrimination-birth-registration>.

³³ UN Principles and Recommendations for a Vital Statistics System, paragraph 36 – 37.

Some countries designate a male relative or “head of household” (which in some countries, due to law or custom, may necessarily be a male) as the primary informant for a death. This can prevent a wife from reporting the death of her spouse to the civil registrar, or a female child from reporting the death of a parent. It may also prevent a mother from reporting the death of her child. Such discrimination against women may result in the loss of pensions, benefits, or inheritances to the wife and/or children of a deceased husband or father, or the loss of other social service benefits to the mother of a deceased child. Therefore, if informant responsibilities are placed on the family, the informant list should list female relatives of the deceased - e.g., wives, female children, and mothers - as equal to other male relatives.

Guidance: Describe the informant(s) for death registration designated in the law. If priority is specified in the law, note the order of priority. In the comments section, analyze whether the law discriminates against wives, female children, or other female informants.

-
- a. **Describe the informants for death registration.** Specifically note whether a wife, female children and other female relatives may act as informants.

Citations:

Comments:

III. Stillbirths [**Skip this section if Chapter 4: Stillbirth Reporting was previously completed.**]

8. Stillbirth Reporting and Registration

Best Practice: Stillbirth is one of the ten vital events recommended by the United Nations for continuous, permanent, compulsory, and universal registration. Information on all stillbirths should be collected and reported for the purpose of generating vital statistics.

The duty to record stillbirths is recognized by the International Covenant on Economic, Social and Cultural Rights, which explicitly requires States to reduce the stillbirth rate.³⁴ Accurately counting the incidence and identifying the causes of stillbirths are an essential first step to reducing the incidence of stillbirths. In addition, consistent information about the nature and cause of death of stillbirths is needed for health system planning, prioritizing resources, policy making, and improving the quality of care at the point of service delivery.³⁵

There are two methods of monitoring stillbirths for statistical purposes. One method is to require registration of stillbirths through the civil registration system. If this method is used, it is important that stillbirths be registered separate from other births and deaths; stillbirths should not be registered or classified as a birth and/or a death. The other method requires the health sector to report all stillbirths to the Ministry of Health (not the civil registrar). Both methods are considered international good practice.³⁶

Regardless of which method is used, the WHO recommends that all stillbirths involving fetuses weighing at least 500 grams be reported and included in *national statistics*. When information on weight is unavailable, a gestational age of 22 completed weeks or a body length of 25 cm (from crown to heel) should be used. For *international statistics*, countries should report and include fetuses weighing 1000 grams or more. Where information on birth weight is not available, a gestational age of 28 completed weeks or body length of 35 cm (crown to heel) should be

³⁴ 96 A/RES/21/2200, article 12(2)(a).

³⁵ *Making Every Baby Count: Audit and review of stillbirths and neonatal deaths*, World Health Organization, 2016, page 5, available at: <https://www.who.int/publications/i/item/9789241511223>.

³⁶ UN Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management, paragraph 313.

used.³⁷ Information from registration or reporting of stillbirths should be used to derive vital statistics on stillbirths, which should be published at least annually.³⁸

Understanding the cause of death for each and every stillbirth is critical for improving maternal, child, and fetal health, as well as prenatal care and interventions. Therefore, all stillbirths should ideally be reported with a cause of death, using the WHO's Medical Certification of Cause of Death (MCCD) form. However, the lack of an MCCD should not prevent the registration or reporting of a stillbirth.

For more information on stillbirth reporting, see Chapter 4: Stillbirth Reporting and Registration.

Guidance: Answer the questions below. In the comments section, analyze whether the law aligns with international best practice on reporting stillbirths and note any recommended actions for improvement.

- a. Does the legal framework require stillbirth reporting for every stillbirth that occurs within the territory of the country?** _____ **Yes** _____ **No**

If yes, state whether stillbirth information is collected through: a) the registration of stillbirths by the civil registrar, or b) through health sector reporting to the Ministry of Health?

Citations:

Comments:

- b. What are the criteria used for stillbirth reporting or registration** (i.e., gestational age, weight of foetus, or length of foetus)?

Citations:

Comments:

- c. Are vital statistics on stillbirths (derived from registration or reporting) published at least annually?**

Citations:

Comments:

- d. Are stillbirths reported with cause of death information using the WHO's MCCD form?** Specifically address whether a stillbirth may be registered if it is not possible to obtain an MCCD.

Citations:

Comments:

³⁷ ICD-10 volume, sections 5.14, available at https://icd.who.int/browse10/Content/statichtml/ICD10Volume2_en_2019.pdf

³⁸ ICD-10 volume, sections 5.14, available at https://icd.who.int/browse10/Content/statichtml/ICD10Volume2_en_2019.pdf.

IV. Time Period for Registration

9. Late and Delayed Registration

Best Practice: While timely registration should be encouraged and made readily available, procedures for late and delayed registration should not be penalized or made so burdensome as to deter registration altogether.

Deadlines for birth registration are often between 14-30 days, and for death and stillbirth registration, between 3-5 days.³⁹ A late registration occurs after the legally specified time period, but within a grace period, usually defined as one year after the vital event.⁴⁰ Delayed registration occurs after the grace period ends.⁴¹

Late and delayed registration should be discouraged because timely registration allows for the generation of timely vital statistics, which are necessary for administrative and public health decisions. Designating the health sector as the informant helps ensure timely registration. However, where the family is the informant, procedures for late and delayed registration should not be so onerous that they deter or prevent a family member from registering the vital event entirely. For example, laws that require a court order, or impose fees or penalties, for late or delayed registration present a significant disincentive to register.⁴² Usually, late registration is allowed without much additional proof of the event. For delayed registration, additional proof (such as witnesses) may be required; however, additional proof should not be so burdensome as to disincentivize registration. Proof requirements should be carefully tailored to balance the need for accuracy with the goal of achieving complete registration rates.

Women may face unique challenges to timely registration. For example, a new mother may need time to recover from a difficult labor or post-partum complications, which can make it extremely difficult to travel to a registration office within the prescribed time frame. In some cultures, mothers are expected to stay confined to their home for a certain period following their child's birth.⁴³ Naming traditions, where a child is not named until a certain number of days or weeks has passed, may also hinder timely birth registration. As discussed in Section 3, children and adolescents who are orphaned, abandoned, or living independently may not have had their births registered on time by their parents. After a death, widows may be expected to stay confined to their home for a certain period, which can prevent timely death registration. Deadlines for timely registration, and any additional requirements for late or delayed registration, should take into account cultural or social factors such as these and not disincentivize or penalize late or delayed registration.

Guidance: Answer the questions below. In the comments section, analyze whether deadlines for timely registration, and provisions for late and delayed registration, might have a greater impact on women if they serve as the informant.

-
- a. **State the deadline for on time birth registration.** Note any cultural or social norms that might prevent a woman from registering the birth of her child within this time period, or that might prevent an orphaned, abandoned, or independent child or adolescent from registering their own birth.

Citations:

Comments:

- b. **State the deadline for on time death registration.** Note any cultural or social norms that might prevent a woman from registering the death of her husband (or child) within this time period.

³⁹ U.N. Handbook of Vital Statistics Systems and Methods Volume I: Legal, Organizational, and Technical aspects, para. 182.

⁴⁰ U.N. Principles and Recommendations for a Vital Statistics System, Revision 3, para. 363.

⁴¹ U.N. Principles and Recommendations for a Vital Statistics System, Revision 3, paras 369-370.

⁴² U.N. Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, paragraph 281.

⁴³ J.C. Knowles, G. Koolwal, Gender Issues in CRVS and Access to Adult Identity Documentation: Report to the UN Foundation under the Data2X Initiative, 2016, page 10.

Citations:

Comments:

- c. **Are penalties imposed for late or delayed registration?** If so, describe. (You may skip this question if Chapter 3 – Birth and Death Registration – was previously completed.)

Citations:

Comments:

- d. **Is additional proof or a court order required for late or delayed registration?** If so, describe. (You may skip this question if Chapter 3 – Birth and Death Registration – was previously completed.)

Citations:

Comments:

IV. Registration of Marriage and Divorce [**Skip this Section, including Questions 10-12, if Chapter 6: Registration of Marriage and Divorce was previously completed.**]

10. Universal application: Registration required and available to all

Best Practice: Marriages and divorces are two of the ten vital events recommended by the United Nations for continuous, permanent compulsory, and universal registration. The right to register a marriage must be universally available to all adults and should capture all marriages occurring in every geographical area and every population group in the country.⁴⁴

The Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, Article 3, states: “All marriages shall be registered in an appropriate official register by the competent authority.”

Registration of marriage protects women, as possession of a marriage certificate secures rights, such as the right to property, inheritance, and other benefits. Therefore, all legally valid marriages that take place in a country must be registered.

Some countries have low marriage registration rates because couples are married in religious or customary ceremonies that are not legally recognized. A process for recognizing and registering these marriages is important for legitimation of children, property rights, inheritance, and sharing of income and assets should the union be dissolved. Consequently, many countries have a process for voluntarily registering customary marriages, even when the marriage happened many years ago. For example, spouses in a customary marriage may provide proof that the marriage occurred at some time in the past, such as affidavits or statements of witnesses to the wedding ceremony.⁴⁵ Upon receiving this evidence of the customary marriage, a registrar may register the marriage, recording the date of the occurrence of the customary marriage as well as the date of registration.

⁴⁴ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 128.

⁴⁵ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 390.

The UN recommends that polygamous marriage be discouraged and prohibited, as polygamous marriage contravenes a woman's right to equality with men and can have serious emotional and financial consequences for her and her dependents.⁴⁶ However, if polygamous marriage is legal, it is important that these marriages be registered in order to protect the rights of women and children.

Guidance: Answer the questions below. In the comments section, analyze whether the law meets best practice and note any barriers to marriage registration. Consider whether there is discrimination or a discriminatory impact against any geographic or population group.

- a. Is registration required and available for all legally valid marriages within the territory of the country?** (Including polygamous marriages, if legal.)

Citations:

Comments:

- b. Is there a voluntary process in place for registering customary marriages?** (Include polygamous marriages, if practiced by custom.)

Citations:

Comments:

11. Application for Marriage: Proof of Age and Consent

Best Practice: Spouses to a marriage must be at least 18 years of age and freely consent to the marriage. The marriage registration process should ensure that these requirements are met.

Marriage before the age of 18 is a fundamental violation of long-standing principles of human rights law.⁴⁷ Article 16 of the Universal Declaration of Human Rights states that men and women of *full age* have the right to marry, and that marriage shall be entered into only with the *free and full consent* of the intending spouses. The Convention on the Rights of the Child recognizes that any person below the age of 18 is a child.⁴⁸ Therefore, the legal age for marriage should be at least 18 years of age. No child under the age of 18, without exception, shall be forced into marriage or permitted to marry, as a child under the age of 18 is unable to provide free and full consent.

The marriage registration process can help protect children from underage and forced marriages. During the marriage application process, the civil registrar should require proof of age (such as a birth certificate or a witness if documentary evidence is not available) to ensure that each spouse is at least 18 years of age. There should be no exceptions to this age requirement whatsoever. Underage marriage should not be permitted with parental consent, under religious or customary law, in the event of pregnancy, with court approval, or for any other reason.

In addition, in accordance with the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (Article 1), consent to the marriage must be expressed in-person, in front of the registrar or other competent authority or marriage officiant.

⁴⁶ General recommendations made by the Committee on the Elimination of Discrimination against Women, General Recommendation No. 21 (13th session, 1994), comment No. 14, available at: <https://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>.

⁴⁷ UNICEF, webpage on "Child Marriage", available at: <https://data.unicef.org/topic/child-protection/child-marriage/>.

⁴⁸ Convention on the Rights of the Child, Article 1.

Guidance: Answer the questions below. In the comments section, analyze whether the law aligns with best practice and note any suggestions for reform.

- a. **Does the law prohibit marriage for those under 18 years old?** If the law prohibits marriage under an age other than 18 years old, state the age of consent for marriage.

Citations:

Comments:

- b. **Are there exemptions from the general prohibition against underage marriage?** Specifically address whether underage marriage is allowed with parental consent, under religious or customary law, in the event of pregnancy, or with court approval?

Citations:

Comments:

- c. **Does the law require each intended spouse to provide proof of age to the registrar in order to marry?**

Citations:

Comments:

- d. **Does the law require that consent be expressed directly in person by the two future spouses themselves?** Address whether other individuals (parents, religious leaders, officiants, etc.) are permitted to confirm consent on their behalf.

Citations:

Comments:

12. Divorce

Best Practice: A divorce should only be granted by a court of competent jurisdiction. All divorces must be registered to ensure protection of rights; the court that granted the divorce should be responsible, as the informant, for reporting the divorce to the civil registrar. Proof of the divorce should be provided to each party to the divorce.

As recognized by the United Nations Economic and Social Council, a divorce or judicial separation should only be granted by a competent judicial authority,⁴⁹ as this best protects the interests of women and children. While some countries allow a civil registrar to grant a divorce, this is not best practice, as civil registrars often do not have the qualifications to ensure that the legal rights of women and their children are protected.

⁴⁹ United Nations Economic and Social Council, Resolution 1068 F of 1965.

Registration of divorce is especially important for protecting the rights of women, children, and adolescents. The rights stemming from divorce registration include the right to remarry, rights to division of assets, and rights to parental custody of minor children.

The most efficient way to ensure that a divorce is registered is to place responsibility on the courts, as the informant, to report divorces to the civil registration agency. Relying on one or both former spouses to report the divorce may result in a failure to report. This, in turn, will result in inaccurate marriage registers and a lack of protection for women that are parties to a divorce and their children. Therefore, courts should be required to collect specified information about each divorce granted under their jurisdiction and to submit this information to the civil registration authority.⁵⁰ (For more information on what information should be collected, see Chapter 7 on Vital Statistics.)

Each of the parties to the divorce should be given a copy of the divorce decree or certificate of divorce. In most jurisdictions the court issues a divorce decree; in other jurisdictions the registrar may also issue a certificate of divorce.⁵¹ It is important that each party to the divorce (not just the former husband) be given proof of the divorce, as this will be necessary to enforce rights and claim benefits. This proof of divorce should be given automatically, without the need for a formal request or the payment of fees.

Guidance: Answer the questions below. In the comments section, analyze whether the law aligns with best practice and note any suggestions for reform.

a. What entity or authority may legally grant a divorce?

Citations:

Comments:

b. Is registration of a divorce, granted by the competent authority, compulsory? If yes, who is the informant (e.g., the parties or the court)?

Citations:

Comments:

c. Is each party to the divorce given proof of the divorce (e.g., divorce decree or certificate of divorce)? Is the proof given automatically or must it be requested? Are fees charged for proof of the divorce?

Citations:

Comments:

V. Civil Registration and Identity Credential Registration

⁵⁰ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 399-400.

⁵¹ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 403.

13. Accessibility

Best Practice: Civil registration and national identity documents are often required to access public and private sector services. Therefore, all members of the population should have easy access to civil registration and identity registration services. To be accessible, registration services must not only be within close proximity of a person's place of residence, the services must be offered in ways that all members of the population, including women, adolescents and children, feel comfortable utilizing.

Depending on a country's customs and practices, women may face unique challenges when attempting to access civil and identity registration services. For example, physical access to registration sites may be more of a barrier for women than for men, as women in certain social and cultural contexts have many more demands on their time or different hours during which they could attend to such a task (particularly if they are caring for small children). Women may not be able to travel freely, alone, or without compromising their sense of safety outside their town, village, or home unless accompanied by a man. In some countries or certain areas within a country, it may not be appropriate for a woman to interact with a male registrar without being accompanied by a male relative.⁵²

To address these challenges, the legal framework should empower the civil registration agency and the national identity registration agency to mandate and implement special measures to accommodate the needs of women. For example, registrars should be empowered to: provide mobile registration services to remote areas or areas where women are traditionally confined to the home; ensure that female registrars are present at local registration offices; offer extended registration hours or availability on the weekends; and provide registration time slots where only females are permitted to register.⁵³

As with civil registration (discussed in Section 3 above), children and adolescents who live or work on the street have special needs when it comes to identity registration. These children and adolescents lack a physical address, which is generally required to obtain an ID card or other identity document. Identity management agencies should develop and permit innovative solutions to this problem. For example, ID management agencies could permit street children to obtain identity cards linked to the addresses of social welfare institutions, civil society organizations, or their personnel.⁵⁴

The legal framework should authorize civil registration and identity management agencies to implement such special measures or accommodations in order to ensure that women, children and adolescents have a safe, comfortable, convenient and efficient process when registering their vital events or applying for an identity document.

Guidance: Answer the questions below. In the comments section, discuss any social or cultural traditions that may make access to registration sites more difficult for women and children, and describe any possible solutions.

- a. Does the legal framework give the civil registrar sufficient powers to address access challenges faced by women?** Specifically address whether the civil registrar has the power to implement mobile registration, regulate registration hours, and hire female staff, as needed.

Citations:

Comments:

⁵² J.C. Knowles, G. Koolwal, Gender Issues in CRVS and Access to Adult Identity Documentation: Report to the UN Foundation under the Data2X Initiative, 2016, page 7.

⁵³ J.C. Knowles, G. Koolwal, Gender Issues in CRVS and Access to Adult Identity Documentation: Report to the UN Foundation under the Data2X Initiative, 2016, page 7.

⁵⁴ Rights of Children in Street Situations, General Comment No. 21 (2017) on Children in Street Situations, Consortium for Street Children and UNOHCHR, paragraph 41.

- b. Does the legal framework give the national identity registrar sufficient powers to address access challenges faced by women?** Specifically address whether the national identity registrar has the power to implement mobile registration, regulate registration hours, and hire female staff, as needed.

Citations:

Comments:

- c. Does the legal framework permit children and adolescents who live or work on the street, or otherwise lack a physical address, to obtain a national identity card or other identity document?** Describe any special procedures to assist these marginalized children and adolescents to obtain an identity document.

Citations:

Comments:

