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Changing Policies to Save Lives

Civil Registration, Vital Statistics and Identity Management (CRVSID)

Legal and Regulatory Review Toolkit

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ABOUT THE BLOOMBERG DATA FOR HEALTH INITIATIVE

The World Health Organization estimates that 65% of all deaths worldwide — 35 million each year — go unrecorded, and millions of deaths lack a documented cause. Many records do not provide medically accurate or specific information regarding the cause of death. Without this information, government officials, public health leaders and funders cannot make informed decisions on priorities, including how and where to direct public health resources.

Funded by Bloomberg Philanthropies and the Australian Department of Foreign Affairs and Trade, the Data for Health Initiative seeks to address this issue and works to improve public health data so that governments, aid organizations, and public health leaders are equipped with the tools and systems to collect and use data to prioritize health challenges, develop policies, deploy resources, and measure success.

ABOUT THE GLOBAL HEALTH ADVOCACY INCUBATOR

The Global Health Advocacy Incubator supports civil society organizations in advocating for evidence-based policies to improve public health and decrease death and disease. This mission is accomplished by providing training and technical assistance for existing organizations working on public health policy, identifying new partners where needed, and assisting in the development and implementation of strategic advocacy campaigns to promote the adoption and implementation of public health policies.

ABOUT VITAL STRATEGIES

Vital Strategies is a global public health organization working to address the most challenging health issues to improve quality of life for people around the world. An affiliate of the International Union Against Tuberculosis and Lung Disease, Vital Strategies is an implementing partner in the Bloomberg Data for Health Initiative.

ABOUT THE CENTRE OF EXCELLENCE FOR CIVIL REGISTRATION AND VITAL STATISTICS (CRVS) SYSTEMS

Funded by Global Affairs Canada and the International Development Research Centre, the Centre of Excellence supports efforts to develop, strengthen, and scale-up CRVS systems. It contributes directly to the work of the Global Financing Facility. Opinions expressed herein are those of their authors, and do not necessarily represent the views of the Centre of Excellence or its partners.

ABOUT THE CDC FOUNDATION

The CDC Foundation helps the Centers for Disease Control and Prevention (CDC) save and improve lives by unleashing the power of collaboration between CDC, philanthropies, corporations, organizations and individuals to protect the health, safety and security of America and the world. The CDC Foundation is the go-to nonprofit authorized by Congress to mobilize philanthropic partners and private-sector resources to support CDC's critical health protection mission.

INTRODUCTION

This toolkit consists of thirteen (13) chapters. A legal review conducted with this toolkit can be customized by completing the chapters that are relevant and of interest to the stakeholders of a country's CRVSID systems. However, some chapters are generally applicable to all CRVSID systems and should be completed by all reviewers. Specifically:

Chapter 1 explains the purpose, scope and methodology of the legal review. All reviewers should read this chapter.

Chapter 2 addresses the enabling environment and structure of the civil registration system. All reviewers should complete this chapter, as it is important for any assessment of the civil registration and vital statistics system.

Chapter 3 addresses registration of birth and death, **Chapter 4** addresses stillbirth reporting and registration, and **Chapter 5** addresses determining and certifying cause of death. All reviewers should complete these chapters, as they provide best practices that are fundamental to the efficient and effective operation of CRVSID systems.

Chapter 6 addresses medicolegal death investigations (MLDI), with a focus on improving cause of death data from unnatural deaths. This chapter is intended for countries that already have a relatively high rate of death registration for natural deaths. It should be completed if a country is interested in improving cause of death data for unnatural deaths, regardless of whether their MLDI system is led by coroners, medical examiners, or law enforcement.

Chapter 7 addresses registration of marriage and divorce and may be completed if a country is interested in assessing these areas of the legal and regulatory framework.

Chapter 8 addresses the unique challenges women and children face in accessing civil registration and identity document registration and recommends actions to be taken to remove these barriers and facilitate inclusion of women and children. We encourage all reviewers to complete this chapter, as country stakeholders may not recognize the disparate impact of registration processes upon women and children unless these processes are examined.

Chapter 9 addresses best practices that are fundamental to production of timely, complete and comprehensive vital statistics. All reviewers should complete this Chapter.

Chapter 10, on national identity systems, should be completed if a country maintains a national ID system. If a country maintains civil registration and vital statistics systems alone, and does not maintain a national ID system, reviewers should skip this chapter.

Chapter 11 provides a framework for countries to assess if their CRVSID are compliant with international human rights obligations and recommends actions that can be taken to make CRVSID systems more inclusive of lesbian, gay, bisexual, transgender and intersex (LGBTI) people. This chapter should be completed by any country wishing to better understand and redress the challenges faced by LGBTI people with respect to CRVSID.

Chapter 12, on populations registers, should be completed if a country maintains a population register. Countries wishing to establish a population register should review this chapter to understand the various options for designing a population register.

Chapter 13 addresses personal privacy and data protection. We encourage all reviewers to complete this chapter, as issues of personal privacy and data protection apply to all information captured by civil registration and national identity management systems.

The table below serves as a quick guide for reviewers.

Chapter	Title
1	Purpose, scope and methodology for a CRVSID Legal Framework Analysis
2	Structure of the Civil Registration Authority
3	Registration of Birth and Death
4	Stillbirth Reporting and Registration
5	Determining and Certifying Cause of Death
6	Medicolegal Death Investigations
7	Registration of Marriage and Divorce
8	Inclusion of Women and Children
9	Production of Vital Statistics
10	National ID System
11	Equal Access for LGBTI Individuals
12	Population Register
13	Personal Privacy and Data Protection

Chapter

01

Purpose, Scope and Methodology for a CRVSIID Legal Framework Analysis

1. Purpose of a Legal Analysis

The United Nations describes civil registration as “the continuous, permanent, compulsory and universal recording of the occurrence and characteristics of vital events pertaining to the population as provided through decree or regulation in accordance with the legal requirements of a country.”¹ Civil registration serves three important functions: 1) a legal and administrative function, which consists of registering vital events, keeping records that constitute the source of civil status, and issuing certificates that provide proof of that civil status; 2) a statistical function, whereby registration offices collect information on vital events that is the basis of the country's vital statistics, and 3) an identity management function, whereby civil registration provides continuous and accurate input into an identity management system or population register.²

A country's civil registration system must have complete coverage, accuracy, and timeliness to generate quality vital statistics for informed public policy and planning purposes. Currently, many low- and middle-income countries (LMICs) fail to achieve adequate levels of coverage, completeness, and timeliness to generate quality vital statistics.

Identity management refers to producing legally valid proof of identity to each individual and maintaining systems for managing information and documents associated with one's identity, often including individual biometrics. Like civil registration, identity management systems must be continuous and permanent to be effective, and should be universal, in that everyone in the population of the country should have the right to register for and obtain an identity credential or some other means to prove their legal identity. However, unlike civil registration, identity registration and obtaining of an identity credential is not compulsory in all countries. Under the UN model, civil registration should form the basis for establishing and retiring a legal identity.

Civil Registration, Vital Statistics, and Identity Management (CRVSID) responsibilities can be scattered across a range of ministries and agencies that may not coordinate sufficiently or understand the role of other stakeholders in the systems. Among the potential contributing factors to this situation are sub-optimal laws, regulations, standard operating procedures, or other rules that govern the multiple practices that comprise functioning CRVSID systems.

A strong legal framework is the foundation from which well-functioning CRVSID systems are built, and is a necessary step toward achieving universal, permanent, and continuous coverage for civil and identity registration. Undertaking a CRVSID legal review to ensure compliance with international best and good practices is a means to catalyze improved efficiency, security and demand for CRVSID services. Potential benefits include strengthened governance and coordination amongst stakeholders, inclusion in government and private sector services, as well as better health outcomes and life expectancies for the population. It is critical for country stakeholders to understand the legal and regulatory environment related to CRVSID systems given: (1) the multiplicity of stakeholders involved in typical CRVSID systems, (2) the complexity of CRVSID systems and processes, (3) the legal implications of certified vital event information and identity credentials, and (4) the crucial population and health statistics derived from civil registration data.

A review of the existing legal and regulatory environment is therefore advisable before reforming CRVSID systems, or any individual component of a country's CRVSID systems, in order to:

- improve stakeholder's understanding of their CRVSID systems' design, strengths, and weaknesses;
- identify possible improvements to the CRVSID systems that can be made under existing regulatory authority; and
- reform laws and regulations to achieve best practices and align with international

¹ United Nations, *Principles and Recommendations for a Vital Statistics System*, Revision 3, New York, 2014. Para. 279.

² *Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management*, United Nations, 2019, at paragraph 53-62.

standards.

This toolkit provides a guide for analyzing the existing CRVSID legal framework to identify legal obstacles and opportunities. Even though CRVSID systems across countries should serve the same principal functions, every country has developed somewhat different approaches based on its structure, history, and culture. Countries also differ in their CRVSID organization, implementation, processes, scale, partners, and capacities. This toolkit attempts to provide a standardized methodology to capture and evaluate this range of approaches and needs. While the toolkit was designed primarily for analyzing the national laws of LMICs, it can be used to analyze any country's CRVSID systems.

This toolkit allows attorneys and policymakers with differing knowledge of and experience with CRVSID systems to evaluate these complicated systems in accordance with recommended good and best practices and international standards. The toolkit was designed to balance depth, comprehensiveness, ease-of-use, and time to complete. The toolkit provides concise explanations of best practices and good practices and specific guidance on how to evaluate compliance with them. These best and good practices were distilled from publications from the United Nations, the World Health Organization, the World Bank, and other international bodies, which are cited throughout. The results of a CRVSID legal review will allow stakeholders and technical experts to identify strategies for reforming CRVSID systems, or any component of these systems, and distinguish those improvements that can be implemented under current authority from those that require adoption of new legislation.

True reform of CRVSID systems requires many phases of work that extend beyond the scope of this toolkit. With respect to the CRVSID legal framework, these additional phases include, at a minimum, drafting new laws or regulations, advocacy to enact new policies, and implementation of these new policies. Guidance on those additional phases is not included within this toolkit; however, this CRVSID legal review toolkit anticipates, and serves as a basis for, those additional phases of work. This toolkit can be used for developing or enacting national strategic CRVSID plans to pinpoint legislative gaps and opportunities for strengthening CRVSID systems.

2. Scope of the legal analysis

This CRVSID legal toolkit is intended to guide in a comprehensive evaluation of the legal framework of civil registration, vital statistics and ID management systems.³ Therefore, the review focuses on key issues involving registration of births, deaths (including determining and certifying causes of death), stillbirths, marriage (including domestic partnerships and civil unions), and divorce (including judicial separation, annulment and other types of dissolution of marriage). This review is also intended to guide a review of some key concepts and evolving international good practices in national identity management, including identity registration, authentication and retirement, with a particular focus on civil registration providing the basis for national identity management. In addition, the review evaluates foundational issues that are crucial to functioning CRVSID systems, including laws related to the enabling environment, the structure of the civil registrar and identity management agencies, production of vital statistics, and personal privacy and data protection and technology.

Note: while this toolkit guides a review of important concepts and evolving good practices in national identity management and personal privacy and data protection, a thorough review of all aspects of digital identity management systems and privacy protection is beyond the scope of this toolkit. Reviewers interested in highly technical evaluations of technology and security requirements and the corresponding legal issues should seek additional resources.⁴

³ For purposes of this toolkit, the term "legal framework" includes laws and standard operating procedures. The term "law" includes any legally binding measure, including constitutional provisions, legislation, regulations, decree, ministerial orders, official instructions to government agencies, judicial orders, international treaties, and any other document with the force of law. The term "standard operating procedures" includes employee manuals, agency instructions, and any other guidelines issued by agency heads regarding standard procedures and processes.

⁴ For a more thorough review of a country's legal and regulatory enabling environment for digital identification (ID) systems, please

3. Preliminary steps before conducting the legal analysis

For this legal review of CRVSID systems to be most effective, high-level officials from all the relevant government agencies should endorse the process. These participating agencies might include the civil registration agency, national statistics agency, health agency, and identification agency. At a minimum, these agencies should commit to sharing their policies with the legal reviewers and participating in a discussion of the results of the legal analysis.

The analysis itself should be assigned to a skilled attorney or team of attorneys. These attorneys or legal experts should work closely with stakeholders and legal staff from institutions with responsibility for CRVSID systems. The work should be led by an attorney with strong knowledge of and experience in the constitutional structure, administrative system, and policy-making procedure of the country. Actual experience with the laws at issue is helpful, but not required. The material in the toolkit is designed to be self-taught and self-led, so it requires minimal oversight or previous knowledge of CRVSID systems. If necessary, the reviewers can consult with specialists in particular areas of law, such as electronic security, family law, or police and hospital procedures.

The lead attorney(s) should have access to all relevant government agencies and other stakeholders to gather formal rules and informal practices that will be relevant for the review. Agencies should also share previous legal reviews that have been conducted on the CRVSID system, as well as any strategy documents, business process maps, or other non-legal materials that might aid the review process.

4. Process and methodology

This section will outline the recommended seven-step process for legal reviewers. Reviews usually take between six to twelve months, depending on (1) the size of the legal team, their experience, and time they can dedicate to this work, (2) the complexity of the current legal framework, (3) the scope of the legal review, and (4) the ability to find and access all relevant laws. The timeline of working days provided below is an estimate, to assist with time management.

As noted above, we strongly recommend that relevant government agencies formally endorse the review before beginning the process. We also recommend gathering relevant stakeholders together at the conclusion of the review to discuss the results and recommend improvements.

Review Process for Legal Framework Analysis*

Step 1: Read source documents and background information (2-5 working days)

Step 2: Learn glossary of key terms (1-3 working days)

Step 3: Collect all relevant laws using research log (5 working days)

Step 4: Upload all relevant laws to a central folder (1 working day)

Step 5: Review laws against best practices (30 -140 working days, depending on scope of review)

Step 7: Draft and revise a final report (10-40 working days, depending on scope of review)

**All time estimates are approximations.*

STEP 1: Read source documents and background information (Approx. 2-5 working days)

Reviewers should read this entire toolkit, which is based on international standards from key source

see the World Bank Identification for Development (ID4D) diagnostic tool, ID Enabling Environment Assessment (IDEAA), which can be found at: <http://id4d.worldbank.org/legal-assessment>

material, before beginning the legal analysis. Reviewers should also read these three key documents, which are the source of many of the international standards presented in this document:

- ❖ [United Nations, Principles and Recommendations for a Vital Statistics System, Series M No. 19/Rev.3. \(New York, United Nations Department of Economic and Social Affairs, 2014\)](#)
- ❖ [United Nations, Guidelines on the Legislative Framework for Civil Registration, Vital Statistics and Identity Management \(New York, United Nations, 2019\)](#)
- ❖ [World Health Organization, WHO Resource Kit: Strengthening civil registration and vital statistics for births, deaths and causes of death \(Luxembourg, World Health Organization, 2010\)](#)

For other background reading, see the Appendix, which contains a bibliography of source documents and other recommended background reading material.

STEP 2: Learn glossary of key terms (Approx. 1-3 working days)

Reviewers will require working knowledge of these key terms and their internationally standardized definitions for accurate collection and analysis of CRVSID legislation. The Appendix of the U.N. Principles and Recommendations for a Vital Statistics System contains a glossary of key terms that are relevant for a CRVSID legal review. Note that terms currently used in a country might vary greatly from the standard definitions.

STEP 3: Collect all relevant laws and standard operating procedures using a research log (Approx. 5 working days)

Reviewers will collect all laws and standard operating procedures that are relevant to CRVSID systems. Once the laws have been collected, review the collections for completeness. Occasionally, during the course of a legal review, a reviewer may realize that some information is missing and need to do additional research. While this may happen, reviewers should strive to have as complete a collection of laws as possible before starting the legal review. This will increase the speed and accuracy of the review, and will allow a team of reviewers to work on different parts of the review simultaneously. If new laws are added during the course of the reviewed, they should be uploaded as described above.

Note on the use of the term “law” and “standard operating procedures”: Throughout this toolkit, the term “law” includes any legally binding measure, including constitutional provisions, legislation, regulations, decree, ministerial orders, official instructions to government agencies, judicial orders, international treaties, and any other document with the force of law. When referring to only those acts approved by the legislature, the term “legislation” or “act” is used. The term “standard operating procedures” includes employee manuals, agency instructions, and any other guidelines issued by agency heads regarding standard procedures and processes. The “legal framework” includes all laws and standard operating procedures.

A comprehensive understanding of the legal and constitutional foundation of a country’s CRVSID systems is essential for interpreting the roles and responsibilities of CRVSID government agencies and non-governmental stakeholders; each institution’s processes, administrative architecture, and geographic scope; and multi-sectorial coordination in the CRVSID systems.

While most rules regarding civil registration and identity management systems are often contained in a small handful of laws and regulations (often a Birth and Death Registration Act, National Identity Registration Act, Statistics Act, and their respective regulations), there are likely to be dozens of other laws that will affect the functioning of civil registration and identity management. It is critical to collect and analyze every law before analyzing the system.

The checklist below serves as a guide to help ensure all relevant laws have been included in the review.

GOVERNMENT ADMINISTRATION

Constitutional Provisions

Government Organization
Civil Procedure and Civil Code
Local Government/Autonomy

Administrative Procedures
Criminal Procedure and Penal Code
Code of Conduct of Government Officials
Judicial Enforcement
Court Administration

INITIAL INFORMATION COLLECTION

Family, Family Registration and Paternity
Identity Management
Nationality, Residence and Immigration
Burial, Cremation, and Funeral
Education or Student Registration
Police Rules for Unnatural/Accidental Deaths
Emergency/Disaster Procedures

MEDICAL PROCEDURES AND RULES

Government/Private Hospital Manuals
Medical Board Training Requirements and
Procedures
Medical School Curriculum
Coroner, Autopsy, or Inquest Procedures
Hygiene and Disease Prevention
Laws on Specific Diseases, such as HIV/AIDS
National Health Care/Insurance

INFORMATION MANAGEMENT AND DATA PROCESSING

Personal Privacy and Data Protection laws
Electronic Government Rules

Telecommunications Act
Digital Signature
Notary Offices
Certificate of Seal Imprint
Civil Information Management
Public Security

USES FOR CRVS INFORMATION

Statistics or Censuses
Inheritance and Property Rights
Access to Education
National and Local Tax Collection
Military Service
Social Security and Pensions
Emigration and Immigration
Voting and Elections
Registration of Real Estate
Labor/Employment
Access to Banks/Telecom

OTHER CONSIDERATIONS

International Treaties, including Human Rights
treaties
National/Regional Human Rights
Religious Freedom
Protection of Rights of Children
Protection of Rights of Women

Step 4: Upload all relevant laws to a central folder (Approx. 1 working day)

It is recommended that the reviewers, especially those working in a team, save all the laws and other material in a central electronic folder to permit ease of access. Online tools like DropBox and Google Drive offer inexpensive file sharing for multiple users. A standardized labeling format for saving the laws is recommended, as this will allow easier sorting and organization of the many of laws and amendments that are typically involved in a CRVS system. Files should be saved in the following format:

Country_YYYYMMDD_Short Title of Law_DRAFT_Language_Translation.filetype

Below is a key that explains each component of this format:

1. Country: Use the short title of the country name. For example, state the country name as "China" not "The People's Republic of China". Sub-national laws should be saved in a separate folder under each country. For sub-national laws add the region following the country name; for example, "Russia_Chuvasia".
2. Date: Use the enactment date. Usually, this will be the day the law was officially published. For some laws, you may only know the year or month – please include as much information as you have. If no enacted or published date can be easily determined, please leave this section blank. Use the "YYYYMMDD" format
3. Short Title of Law: Use a short, yet understandable, title of the law. Please include the type of law (e.g. law, constitution, regulation, gazette, etc). If the legislation is numbered, please include the number as well. For example, "Law 4256 on Public Health" or "Law 102/2001 on Civil Registration".

4. Draft or Final: Usually, only finalized laws will be analyzed; however, if there are relevant laws that are not final, for whatever reason, please label them: DRAFT. Otherwise, leave this section blank.
5. Language and Translation: Designate the language using an ISO 639-1 two-letter language code. A list of codes is available at: http://www.loc.gov/standards/iso639-2/php/code_list.php. For example, EN (English), ES (Spanish), FR (French), ZH (Chinese). If the file has been translated from the original language into English, write whether it is an official or unofficial translation. Example: EN (English_unofficial)
6. File type: Designate the file suffix. For example, For Microsoft Word file (.doc or .docx), for Adobe Acrobat (.pdf)

Examples:

- Canada_Alberta_20000719_Product Info Regs_EN.pdf
- Turkey_20080516_Circular 2008/6_EN_unofficial.doc
- Russia_200106_CRVS Law _RU.pdf
- Bangladesh_2010_Road Safety Amendments _DRAFT_BN.doc

STEP 5: Review laws against good and best practices (Approx. 30-140 working days)

Once the collection of laws is complete, organized, and up-to-date, reviewers should begin evaluating the laws against good and best practices through completion of the toolkit.

Each chapter describes in detail best practices or good practices (if there is no consensus on "best" practice), with guidance for reviewers on how to evaluate current practices against these international standards. For each of the sections in each chapter that is completed, reviewers will:

- (1) describe the current processes and procedures, as addressed in the guidance;
- (2) identify any legislation or other relevant laws (including decrees, orders, standard operating procedures) on the topic, providing pincites⁵ to relevant provisions; and
- (3) evaluate whether the legislation and other laws align with good or best practices, and provide recommendations on how challenges or gaps may be addressed.

STEP 6: Draft and revise a final report (Approx. working 10-40 days)

Based on the needs of the government and stakeholders, reviewers should draft a narrative report of the findings of the review. The report should be tailored to the circumstances of each country and may not need to include every issue raised in the legal analysis framework. The report should describe the CRVSID systems and highlight major differences between the country's CRVSID legislative framework and international standards, as outlined in this toolkit. The report should explain any legal obstacles to aligning the CRVSID systems with international standards and present potential opportunities for improving the CRVSID systems. The report should clearly explain which government agency or agencies, if any, have existing authority to make the suggested improvements within the existing CRVSID legislative framework. If the improvement can only be made through legislative amendment, the report should note that as well.

⁵ A "pincite", also known as a pinpoint citation, directs readers to the specific portion (e.g., page, section, article, footnote) of a source that supports the stated proposition.

Chapter

2

Structure of the Civil Registration Agency

Why it is important: The organizational structure of the civil registration agency affects how its key activities — including notification, registration, and certification of vital events — are achieved. Countries with a poorly defined structure are less likely to achieve continuous, permanent, compulsory, and universal recording of the vital events in their populations.

Introduction

There is significant diversity in how countries organize and structure civil registration systems. A country's system of government - centralized or decentralized - will impact the structure of its civil registration system. In centralized civil registration systems, there will be a lead civil registration agency at the central level, established by national law, which has local offices at the level of major and minor political sub-divisions. These local offices are directly responsible to the central agency or agencies. In a fully decentralized system, by contrast, there will be a lead civil registration agency at the level of each major political sub-division, established by legislation passed at that sub-national level, answerable to the local government rather than the central government. However, in many countries, the degree of centralization of the civil registration system may fall somewhere in the middle. For example, there may be national legislation that establishes a centralized agency responsible for collecting civil registration data from across the country; however, the national law may designate local government officials at civil registrars in their jurisdiction. These local officials may have a degree of autonomy over the implementation of civil registration; however, the national legislation establishes minimum uniform requirements.⁶

Countries can have efficient and effective CRVSID systems with a wide variety of institutional arrangements. There is no “one size fits all” or “best practice” for the structure of a civil registration system.⁷ However, a strong legal framework should foster some key attributes of the civil registration system. These include: the National Registrar has sufficient authority to implement the system in way that is efficient and effective, including the ability to delegate authority and take part in rule making; there are generally uniform procedures across the country; local registrars have the ability to provide efficient services to the people, including issuance of certificates; registration offices are located so that they are accessible to the entire population; there are clear processes for sending information from the local to the national level; and there are clear administrative processes for hearing grievances and appeals.

How to Use this Chapter:

The UN Principles and Recommendations for a Vital Statistics System defines “civil registrar” as follows: “A civil registrar is the official authorized by law with the responsibility for carrying out the civil registration of vital events in a well-defined area (an entire country, or a county, district, municipality, parish, etc.) and for recording and reporting information on those vital events for legal and statistical purposes.”⁸ Different countries use different terminology when referring to civil registration officials. For example, the title of the head of the national-level civil registration agency might be “National Civil Registrar”, “Registrar General”, or “National Civil Registrar”, and the title of the official in charge of a primary civil registration area (e.g., a municipality, district, town, or village) might be “civil registrar”, “registrar”, “civil status officer”. For simplicity, we refer to head of the national civil registration agency as the National Registrar, and refer to the person in charge of the primary civil registration area as the “local civil registrar”. Any mid-level officials involved in civil registration are referred to as “mid-level registrars”.

This chapter is primarily designed for countries that have a national law on civil registration, with a national level civil registration agency responsible for maintaining a central civil registration database, containing information collected by local civil registrars. It can therefore be used by countries with fully centralized systems and countries with somewhat decentralized systems. However, it can also be used for analysis of a sub-national level laws in a fully decentralized system. If you are conducting a legal review for a sub-national jurisdiction in a fully decentralized system, you should answer the questions about the National Registrar and the national level civil registration agency as if they apply to the head of civil registration at the sub-national level and the corresponding agency.

⁶ United Nations, Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems (UN GOLF), New York, 2019, Para 165 – 169.

⁷ United Nations, Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, New York, 2019, Para 165-166.

⁸ Principles and Recommendations for a Vital Statistics System, Revision 3, at page 202.

This chapter covers the following topics:

1. Powers and Responsibilities of the National Civil Registration Agency and National Registrar
2. Uniform Processes
3. Delegation of Powers and Rule-Making Authority
4. Location of Primary Civil Registration Offices
5. Powers and Responsibilities of Local Civil Registrars
6. Location, Powers, and Responsibilities of Mid-level Registrars
7. Qualifications, Selection or Appointment, and Terms of Service of Civil Registrars
8. Process for hearing appeals
9. Oversight of Registration Offices
10. Stakeholder Coordination
11. Use of Technology

1. Powers and Responsibilities of the National Civil Registration Agency and National Registrar

Best practice: The location within government of the civil registration agency varies among countries. Depending on the country, the civil registration agency might fall under the Ministry of Interior or Home Affairs, the Ministry of Justice, or the Ministry or Department of Health, or it may be an autonomous agency.⁹ Regardless of where the civil registration agency is located within government, the head of the civil registration agency should have sufficient power and authority to ensure that the civil registration system functions efficiently and effectively. These powers and responsibilities should include:

- oversight and implementation of the civil registration system;
- participation in drafting of rules, regulations and instructions to promote uniform practice;
- delegation of registration responsibilities and powers to other officials
- management and inspection of registration offices;
- conducting quality assurance monitoring and addressing areas of concern;
- assessing degree of coverage and establishing boundaries for local offices;
- hiring, management, and training of personnel;
- management of physical resources and technology;
- resolution of incidents and appeals; promoting the registration requirements to the public; receiving and compiling data;
- exchanging information with other agencies; and
- safekeeping records and archives.¹⁰

Guidance: Answer the questions below. In the comments section, analyze whether the National Registrar has sufficient powers to ensure the efficient and effective functioning of the civil registration system. Specifically note whether any of the powers listed above are assigned to sub-national level registrars, rather than the National Registrar.

a. State the agency at the national level responsible for civil registration

Citations:

Comments:

b. Describe the powers and responsibilities of national civil registration agency and the National

⁹ UN GOLF, New York, 2019, Para 174.

¹⁰ United Nations, Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, New York, 2019, Para 177.

Registrar.

Citations:

Comments:

2. Uniform Processes

Best practice: Civil registration systems should aim to have generally uniform processes across the country.

Standardized processes help to ensure that quality services are available to every person in the country and that data collected at the central level from sub-national jurisdictions are comparable and of consistent quality. In centralized systems, uniform processes are mandated by national law and regulations. In some semi-decentralized systems, the national law may set minimum criteria and processes; however, local officials may have some degree of autonomy in implementing these requirements. Even in a fully decentralized system, there should be an agency at the national level to create minimum standards or to work cooperatively with decentralized offices to ensure generally uniform practices and procedures.¹¹ For example, a central agency may issue model laws, regulations, and standard operating procedures (SOPs) which aides each major civil division to promulgate its own laws, regulations and SOPs to closely conform to the recommended model.¹²

Guidance: Describe the legal framework regarding uniform national procedures and note any regional variations in procedures. In the comments section, describe any impact of regional variations, if known.

a. Describe the legal framework that provide for uniform processes across the country. Specify whether Uniform procedures are provided in binding legislation, regulations, and SOPs, or non-binding model laws.

Citation:

Comments:

b. Are there regional variances across jurisdictions in civil registration procedures?

Citation:

Comments:

3. Delegation of Powers and Rule-Making Authority

Best practice: The National Registrar should have the power to take part in rule-making and the power to delegate responsibilities with appropriate oversight. These are important powers to help ensure that the

¹¹ United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014. Para. 311.

¹² United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014. Paras. 49, 317-318.

system runs efficiently and effectively.¹³

The legal framework should empower the National Registrar to set standards for the implementation of various operations within the civil registration, systems including notification, registration, and certification of vital events.¹⁴ The authority to promulgate regulations, rules and instructions enables the central authority to ensure that local officials are conducting duties in a uniform and consistent manner across the country. Uniform and consistent practice also enables coordination between agencies. For example, uniform collection of data at birth registration allows the statistic agency to generate comparable statistics for all regions of the country.¹⁵ In some countries, the Minister of the ministry that houses the civil registration agency (rather than the National Registrar) will have the power to promulgate regulations. Where this is the case, the National Registrar should have the power and responsibility to provide input into the regulations. Regardless of whether the National Registrar has the power to issue regulations, the National Registrar should have the power to issue Rules and Standard Operating Procedures (SOPs) that implement legislation and regulations.

The volume of work in most countries will require the National Registrar to delegate powers to others, such as a deputy national registrar or local registrars, to act on their behalf. Therefore, legislation should authorize the National Registrar to delegate some of his or her powers to other officials, and specify which powers are delegable. Delegation of powers should be in writing and subject to oversight.¹⁶ Delegation power can be useful to increase access to civil registration. For example, if no registration office exists in an area, the National Registrar may delegate registrar powers to a local government official or the head of a health facility to make services accessible. Delegation can also enable more efficient services at the local level. For example, if legislation empowers only the National Registrar to approve corrections to registration records, delegation of this power to local registrars will enable a swifter correction process.

Guidance: Describe the rule-making powers and delegation powers of the National Registrar. In the comments section, describe whether the law aligns with best practice and note any recommendations for regulatory reform.

- a. Does the National Registrar have the power to issue, or to take part in development of, regulations?** (Describe the extent of this power).

Citations:

Comments:

- b. Does the National Civil Registrar have the power to issue Rules or SOPs?** (Describe the extent of this power).

Citations:

Comments:

- c. Does the National Registrar have the power to delegate any powers and responsibilities and, if so, which powers and responsibilities?** (If known, state whether any powers have been delegated, and how they are overseen).

¹³ UN GOLF, paragraph 117- 182.

¹⁴ United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014. Para. 40(e).

¹⁵ UN GOLF, paragraph 178-179.

¹⁶ UN GOLF, paragraph 180.

Citation:

Comments:

4. Location of Primary Civil Registration Offices

Best Practice: Each primary civil registration area should correspond with minor civil divisions of the country, adjusting boundaries, if necessary, based on population, resources, accessibility, literacy, and simplicity of registration. Each primary civil registration area should be managed by one local civil registrar, with an office that is easily accessible to the public.¹⁷ Regular daily office hours should be kept.

In order to improve registration coverage, the local civil registrar (or National Registrar) should be empowered to set up additional civil registration offices (called secondary civil registration offices) within the primary civil registration area, at selected locations where the number of vital events is large enough to warrant an additional office, such as hospitals. The establishment of a secondary registration office should entail the appointment of a responsible registrar, who reports to the local civil registrar responsible for the primary civil registration area. The area of coverage of the secondary registration office should be clearly defined; when established at a hospital, the boundaries which may sometimes cover localities outside the hospital itself.¹⁸

The local civil registrar should also be empowered to use mobile registration units to reach areas within the primary registration area that are remote or difficult to access due to geography.¹⁹ These mobile units should travel to predetermined places according to a fixed and well publicized schedule and stay long enough to capture vital events that have occurred since the last visit.²⁰

Guidance: Answer the questions below. In the comments section, analyze whether the location of primary and secondary civil registration offices, and the use of mobile registration units, is sufficient to enable access to registration services by everyone who lives within the primary registration area.

a. Do primary civil registration areas correspond to minor civil divisions?

Citation:

Comments:

b. Does the local civil registrar or National Registrar have the power to establish secondary civil registration offices? If so, have any been established (e.g., in hospitals)?

Citation:

Comments:

c. Does the local civil registrar have the power to use mobile civil registration units? If so, are

¹⁷ United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014. Paras. 340-346.

¹⁸ United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014. Para. 347.

¹⁹ United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014. Para. 348.

²⁰ United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014. Para. 329.

they currently used?

Citation:

Comments:

- d. Do the office hours of registration offices, and schedule of any mobile units, permit easy access to registration?

Citation:

Comments:

5. Powers and Responsibilities of Local Civil Registrars

Best practice: The local civil registrar must be sufficiently empowered to enable efficient provisions of registration services. Some key duties and responsibilities of local civil registrars should include: verifying accuracy and completeness of information reported by the informant, recording legal and statistical information, officially registering vital events in the civil register, and issuing certified copies of vital event records.²¹

The local civil registrar should be authorized by law to register vital events. In order to do this, the local civil registrar must be empowered to review the information provided by the informant for accuracy and completeness, and to record the information in the civil register. Recording the information in the civil register constitutes official registration of the event.²² In some countries, verification of the information and recording in the official register takes place at the national level, rather than the local level. This slows down the registration process. Therefore, local registrars should be empowered to verify information and officially register vital events.

The local civil registrar should be authorized by law to produce and issue certificates of vital events, after registration of a vital event. In some countries, the local registrar lacks the resources or capacity to issue the certificate. For example, the local registrar may not have a sufficient supply of security paper or the means to print certificates. In these instances, the central agency issues the birth certificate, which is then sent to the local registrar to be collected. However, this can cause substantial delays in certificate issuance. Therefore, local civil registrars should be empowered, and have sufficient resources, to produce and issue certificates at the local level.²³

The local civil registrar should have authority to make minor corrections and add uncontested information to the civil registration record. Specifically, the local civil registrar should be empowered to correct errors, such as obvious spelling, date and typographical errors; add omitted information, such as uncontested paternity information; and to add or amend the name of a child on birth registration within a certain time period. This relieves the applicant of having to spend time and money applying to the central agency and/or to the courts, and relieves the central agency and/or the courts of additional workload.²⁴

Finally, the local civil registrar should have the power to delegate powers and responsibilities to staff under their supervision. In some countries, only the local civil registrar (as head of the office) is authorized

²¹ United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014. Paras. 328-334.

²² UN GOLF, paragraph 15.

²³ UN GOLF, paragraph 287.

²⁴ U.N. Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, paras. 408-412.

to undertake certain tasks, such as verification of information or printing and signing of certificates. This can lead to delays in registration and certification. To foster efficient service provision, the local civil registrar must be able to delegate responsibilities to staff in primary and secondary registration offices and staff of mobile units.

Guidance: Answer the questions below regarding the powers and responsibilities of the local civil registrar. In the comments section, describe whether the law aligns with best practice and note any recommendations for regulatory reform.

a. Does the local civil registrar have the power to officially register vital events?

Citation:

Comments:

b. Does the local civil registrar have the power and resources to produce and issue certificates of vital events?

Citation:

Comments:

c. Does the local civil registrar have the power to make minor corrections and add uncontested information to the civil registration record?

Citation:

Comments:

d. Does the local civil registrar have the power to delegate responsibilities to staff under their supervision?

Citation:

Comments:

6. Location, Powers, and Responsibilities of Mid-level Registrars (if applicable)

Best Practice: In some countries, a civil registration system may also include registration officers located at a major civil sub-division level of the country (e.g., province, region, state, or district) in addition to the local level. These mid-level registrar may have supervisory power over local civil registration offices, powers to hear appeals of decisions made by local civil registrars, or they may be responsible for collecting data from local offices and submitting it to the national level. They may also be empowered to register vital events and issue certificates, just like primary registration offices.²⁵ There is no best practice

²⁵ UN GLOF, Paragraph 239.

regarding mid-level registrars and their powers. The decision to have mid-level registrars, and what powers to give them, should be based upon whether it enables the system to function more effectively and efficiently.

Guidance: Describe the legal framework for any mid-level civil registrars, including all levels that may exist between the national level and primary level offices. In the comments section, note any observations regarding the functioning of these mid-level registrars, including whether it improves or hinders the efficiency of the system.

a. Does your country have any mid-level registrars between the national level and local level?

Yes _____ No _____

Citation:

Comments:

b. If you answered “yes” to question (a), describe the location of these mid-level registrars, and their powers and responsibilities. (Specifically note whether these mid-level registrars have supervisory power, powers to hear appeals, powers to register and certify vital events, and/or are involved in the transmittal of data).

Citation:

Comments:

7. Qualifications, Selection or Appointment, and Terms of Service of Civil Registrars

Best Practice: Civil registrars hold significant power and their decisions can affect people’s lives. They are responsible for assigning legal identity at birth and closing legal identity upon death, issuing identity and civil status documents, and making decisions regarding correction of errors. They may also hold the power to conduct marriage ceremonies and to collect fees directly from registrants. Therefore, it is important that the law clearly sets out the required qualifications for civil registrars, the appointment or selection process, and terms of employment.²⁶

Civil registrars should be full-time officials, who enjoy civil-service status, and should be adequately paid.²⁷ It is important that civil registrars be full-time officials, as this helps ensure that registration services are available to the public during regular business hours. If civil registrars are part-time employees, or hold other official duties simultaneously, this will hinder their ability to provide services to the public in a timely manner. Civil service status helps ensure that civil registrars are qualified and held to the same standards as other government civil servants. Finally, registrars should be adequately paid so that they are not tempted to resort to seeking informal fees for service.

The law should state how civil registrars are selected, appointed, or designated. As stated above, ideally, the law should require that civil registrars be civil servants, recruited and selected through civil service processes. However, in some countries, local elected officials hold the position of local registrar in their official capacity. Consequently, the law cannot require or guarantee the qualifications of the local registrar. In these

²⁶ United Nations, Guidelines on Legislative Framework for Civil Registration, Vital Statistics, and Identity Managements Systems, New York, 2019, Para 242.

²⁷ United Nations, Guidelines on Legislative Framework for Civil Registration, Vital Statistics, and Identity Managements Systems, New York, 2019, Para 242.

circumstances, there is usually a civil servant employed to act as the assistant registrar who handles the civil registration functions. Where this is the case, the law should set forth the requirements and qualifications necessary to fill this position of assistant registrar.²⁸ It is important to note that, while systems with elected officials designated as registrar can function well, they may also result in an unclear chain of command or reporting structure because the elected official is not directly responsible to the national level civil registration agency.

Ideally, the National Registrar is also a civil servant. However, in many systems, the National Registrar is an appointed official. If that is the case, the law should specify the appointment process and any qualifications required to hold this position.

Guidance: Describe the legal framework related to matters of civil registrars' qualifications, selection or appointment, and terms of service. These requirements are often contained in civil servant laws, regulations or policies. In the comments section, describe whether the law aligns with best practice and note any recommendations for regulatory reform.

- a. **Describe how the National Registrar is appointed or selected, any required qualifications, and terms of employment.** Specifically note whether the National Registrar is a fulltime official with civil servant status, and pay scale, if known.

Citations:

Comments:

- b. **Describe how local civil registrars are appointed, selected or designated; any required qualifications, and terms of employment.** Specifically note whether the local civil registrars are fulltime officials with civil servant status, and pay scale, if known. If local civil registrars are elected officials, state whether there is a civil servant employed as an assistant registrar.

Citations:

Comments:

- c. **If applicable, describe how mid-level registrars are appointed, selected or designated; any required qualifications; and terms of employment.** Specifically note whether mid-level civil registrars are fulltime officials with civil servant status, and pay scale, if known. If mid-level registrars are elected officials, state whether there is a civil servant employed as an assistant registrar.

Citation:

Comments:

8. Process for hearing appeals

Best Practice: Decisions made by civil registrars can have legal consequences that may fundamentally

²⁸ UN GOLF, paragraph 243.

impact a person's life. Reasonable minds may disagree about how to resolve certain difficult situations and therefore decisions made by civil registrars should be subject to administrative and judicial review. In many jurisdictions, before appealing to the courts, an individual must appeal a local civil registrar's decision to a higher administrative level, on up to the central level. This is referred to as "exhaustion of remedies" and serves two purposes. First, it allows the registration authorities the opportunity to correct the mistake without burdening the courts. Second, it creates a record of the administrative decision for the court to review. **After appealing through administrative channels, up to the national level**, an individual should be able to appeal to the courts if they feel they have not been able to obtain a satisfactory resolution of their issue. The legal framework should provide the right to appeal a registrar's decision, a clear process by which to appeal, and time frames in which to appeal.²⁹

Guidance: Describe any right to appeal the decision of a civil registrar, including the process by which and the authority to which a person may appeal, and the timeframe for appeal. **In the comments section, describe whether the law aligns with best practice and note any recommendations for regulatory reform.**

a. Is there a right to appeal the decision of a civil registrar? Yes No

Citation:

Comments:

b. Must administrative remedies be exhausted before an appeal is filed in court?

Yes No

Citation:

Comments:

c. Describe the appeal process and time frames:

Citation:

Comments:

9. Oversight of Registration Offices

Best Practice: A performance-monitoring program is an integral part of civil registration systems. Routine monitoring and inspection of civil registrars' work is required in order to continue to improve the efficiency, effectiveness and quality of the system.³⁰ The central level agency or a mid-level office with supervisory power should routinely monitor and inspect the work of primary level civil registration offices. If non-conformance to procedures is found, steps to improve performance should be taken, including additional training, warnings, and penalties for deliberate failure to carry out duties, as well as incentives to encourage local civil registrars to fulfill their duties.³¹ There should be clear procedures and penalties

²⁹ United Nations, Guidelines on the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 528-530.

³⁰ United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014. Para. 335; United Nations Guidelines on the Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, New York, 2019, Paras 524-525.

³¹ United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014. Paras. 338-339;

for instances of deliberate misconduct by civil registrars, including fraudulent registrations or inappropriate disclosures.³²

Guidance: Describe procedures to monitor and inspect civil registration offices; procedures for correcting poor performance and/or penalizing misconduct by civil registrars, as well as any incentives to improve the performance of registrars. In the comments section, describe whether the law aligns with best practice and note any recommendations for regulatory reform.

a. Describe any routine monitoring and inspection procedures for civil registration offices.

Citation:

Comments:

b. Describe any procedures for correcting poor performance and/or penalizing misconduct by civil registrars.

Citation:

Comments:

c. Describe any other incentives to improve performance for civil registrars.

Citation:

Comments:

10. Stakeholder Coordination

Best Practice: Because multiple stakeholders are involved in civil registration - including the health sector, the civil registration agency and that national statistics agency, at a minimum - it is important to have a coordinating mechanism for their activities. Close coordination and collaboration across government agencies facilitates accurate, timely and updated information across databases; aids production of timely and accurate statistics; avoids duplication, errors, or omissions; ensures concepts, definitions, and classifications are consistent nationally, and helps align system processes.³³ Therefore, stakeholders should establish an interagency coordination committee, comprising staff members of the agencies involved in the CRVS system (and ID system, if appropriate), which meets regularly to discuss matters affecting the agencies.³⁴ A coordination committee should be established on a permanent basis, have clearly defined membership and terms-of-reference,³⁵ and meet regularly. Ideally, participation in the coordination

United Nations Guidelines for the Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, New York, 2019, Paras 524-525.

³² United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014. Para. 326; United Nations Guidelines for the Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, New York, 2019, Paras 531.

³³ United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014. Paras. 41, 48

³⁴ United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014. Paras. 52, 319-22.

³⁵ United Nations, Handbook of Vital Statistics Systems & Methods, Volume 1: Legal, Organizational, and Technical Aspects, New

committee should be required by the terms of the participants' employment contracts so that participation is assumed and required without additional remuneration.

Working groups established under the coordination committee can aid with coordination on specific topics. For example, a national mortality working group can play a key role in improving the completeness and quality of mortality data, which is critical to public health decision-making. Similarly, a verbal autopsy committee can play a key role in improving the completeness and quality of VA cause-of-death data. A working group on interoperability can help ensure that sharing of data between key stakeholders is effective and efficient by establishing standards for business processes, definitions and technology.

Guidance: Describe any CRVSID coordinating committees and working groups. In the comments section, note any observations and opportunities for improvement.

- a. Describe any interagency coordinating committee or other coordination mechanism.** Specifically address how often the committee meets, the membership of the committee, and the role of the committee.

Citation:

Comments:

- b. Describe any working groups established under the coordinating committee.** Specifically address the topic of the working group, how often the working group meets, the membership of the working group.

Citation:

Comments:

11. Use of Technology

Best Practice: The use of computers, tablets, and other electronic devices should be permitted for on-line registration, and the collection, storage and transmission of data.³⁶ Electronic signatures (or unique identifiers in lieu of signatures) should be explicitly permitted to facilitate electronic collection of information, registration of vital events, and issuance of certificates.³⁷ A common problem with older CRVS laws is that they contain provisions that are specific to paper processes. For example, some laws require a person to sign a registration application in person in front of the registrar, or explicitly state how paper registers must be kept and closed each year, or require a registrar to physically sign certificates in person. These types of provisions should be updated to allow for electronic registration; electronic collection, storage and transmission of data, and electronic certificate issuance.

Guidance: Describe any provisions in the law that might prohibit or hinder computerization of the civil registration system. In comments section, describe any recommended actions.

York, 1991. Para. 270.

³⁶ United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014. Paras. 378, 381-382.

³⁷ Pacific Community, Legislation for Civil Registration and Vital Statistics in the Pacific: Best Practice Guidelines and Examples, Noumea, Secretariat of the Pacific Community, 2016. P. 46.

- a. **Describe any provisions in the civil registration law that prohibit or hinder online registration and/or electronic collection, storage or transmission of data.** Specifically note whether electronic signatures are permitted.

Citation:

Comments:

Chapter

03

Registration of Birth and Death

Why it is important: For individuals, birth registration is the foundation of legal identity and facilitates access to key population services, such as education and healthcare. For government, the collection of critical information about vital events, and the compilation of vital statistics based on this data, provide critical information about the population for decision making. Complete registration of vital events, particularly births and deaths, is essential for realizing human rights and promoting better health outcomes.

Introduction

Birth and death registration, like civil registration in general, serve three primary functions: 1) a legal and administrative function, 2) a statistical function, and 3) an identity management function.³⁸ The legal and administrative function consists of registering births and deaths, keeping records on births and deaths, and issuing birth and death certificates. Birth and death certificates are extremely important to individuals because they provide legal proof of these key vital events and these certificates may be required to access private and public services and benefits. Complete registration of vital events, particularly births and deaths, is essential for realizing human rights and promoting better health outcomes. The statistical function involves collecting information on births and deaths, which forms the basis of the country's birth and death vital statistics. This data provides critical information about the population for decision making and public health interventions. Birth and death registration are also important for identity management. Birth registration establishes a legal identity and death registration retires that legal identity, preventing the fraudulent use of that identity. The civil registration system, in addition to forming the foundational source of data for vital statistics, should also continuously update the identity management system and/or the population register.³⁹

This chapter covers the following topics:

1. Universal Application
2. Definition of Vital Event and other Key Terms
3. Informants
4. Place of Registration
5. Time Allowed for Registration
6. Cost of Registration
7. Information Required at Registration
8. Proof Required to Register for On-time Registration
9. Provision for Late and Delayed Registration
10. Process for Sharing Information Between Local and National Civil Registrar Offices
11. Unique Identity Codes
12. Certified Copies of Vital Event Information
13. Incomplete Records, Amendments, and Corrections
14. Registration Linked to Access to Key Services and Other Incentives
15. Burial Permits and Disposal of Bodies

1. Universal Application

Best Practice: There must be a legal requirement for the civil registration authority to register all births and deaths. In keeping with the UN principles for a CRVS system, registration should be inclusive and compulsory, and should capture all vital events occurring in every geographical area and every population group in the country.⁴⁰

Countries may have a process by which vital events occurring to citizens who are residing abroad may be reported to the home country.⁴¹ When a child is born to parents who are residing outside their country of citizenship, the country in which the birth occurred has an obligation to register the birth

³⁸ *Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management*, United Nations, 2019, at paragraph 53-62.

³⁹ *Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management*, United Nations, 2019, at paragraph 53-62.

⁴⁰ United Nations, *Principles and Recommendations for a Vital Statistics System*, Revision 3, New York, 2014, para. 34.

⁴¹ U.N. *Principles and Recommendations for a Vital Statistics System*, Revision 3, para. 296.

and issue a birth certificate. However, the parents may wish to report the birth to their home country, as this can facilitate obtaining citizenship, a national ID and/or a passport for the child in the parent’s home country. There should be a process by which the parents can report the birth. The home country of the parents will not issue a new birth certificate; however, the country may issue a document that reflects the birth abroad to a citizen.⁴² When a person dies abroad, the next of kin or other person with knowledge of the death should register the death with the local authorities in the country where the death occurred. There may also be a process by which next of kin may report the death in the person’s home country, as this may be needed to transport the body back to the home country and to retire the decedent’s legal identity.⁴³

Guidance: Describe whether birth and death registration is compulsory and, if so, for whom. Indicate whether the law applies to all births and deaths that occur in the country. Consider all forms of discrimination that might interfere with the ability of certain groups or individuals to access the civil registration system, such as discrimination on the basis of geography, race, ethnicity, religion, or marital status (i.e., is registration refused to unwed mothers). Note whether nomadic populations, refugees, foreign nationals born in the country, temporary workers, asylum seekers, and displaced, native and aboriginal populations are included in civil registration. Indicate whether and how the law applies to citizens of the country residing abroad. Consider whether the law requires the government to take affirmative steps to register people who might not otherwise be able to, such as persons with disabilities, persons who speak other languages, and persons who live in remote areas. In the comments section, describe whether the law aligns with best practice and note any opportunities for regulatory reform.

a. Is Registration of Birth and Death Compulsory and Provided for All, regardless of:

	Birth	Death
Race, gender, religion, ethnicity, or population group	Yes _____ No _____	Yes _____ No _____
Nationality, citizenship, residency, or refugee/asylum status	Yes _____ No _____	Yes _____ No _____
Geography (e.g., remote areas)	Yes _____ No _____	Yes _____ No _____
Objections by person or the family	Yes _____ No _____	Yes _____ No _____
Marital status	Yes _____ No _____	Yes _____ No _____
Other characteristics (e.g., prisoners, persons with disabilities, or who speak native or foreign language)	Yes _____ No _____	Yes _____ No _____

Is civil registration available to citizens living abroad for:

Birth: Yes _____ No _____

⁴² United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, para. 304.

⁴³ U.N. Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, para. 372.

Death: Yes_____ No_____

Citations:

Comments:

2. Definition of Vital Event and other Key Terms

Best Practice: Clear definitions are required to establish a system for collecting high-quality data. Definitions should align with international standards; this will help countries track development progress and meet international reporting requirements.

The UN defines “live birth” as: “the complete expulsion or extraction from its mother of a product of conception, irrespective of the duration of pregnancy, which, after such separation, breathes or shows any other evidence of life, such as beating of the heart, pulsation of the umbilical cord, or any definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.”⁴⁴

The UN defines “death” as: “the permanent disappearance of all evidence of life at any time after live birth has taken place (post-natal cessation of vital functions without capability of resuscitation).” This definition therefore excludes foetal deaths (see chapter 4 on foetal deaths).⁴⁵

Guidance: Provide the definition of “live birth” and “death” contained in the law. Pay particular attention to whether the definitions, read together, are coherent and whether the definitions of live birth and death create any other legal issues. If there are any other key definitions related to live birth or death, note these below in section (c) (“Other key terms”) and indicate whether they align with UN definitions or otherwise advance or delay the registration work. In the comments section, state whether the law aligns with best practice, and describe any gaps and/or opportunities for regulatory reform.

a. Definition of Live Birth:

Citations:

Comments:

b. Definition of Death:

Citations:

Comments:

c. Other Key Terms:

Citations:

⁴⁴ U.N. *Principles and Recommendations for a Vital Statistics System, Revision 3*, para. 2.

⁴⁵ U.N. *Principles and Recommendations for a Vital Statistics System, Revision 3*, para. 2.

Comments:

3. Informants

Best Practice: Registration records should be completed as soon as possible after the vital event occurs. The simplest and quickest method to achieve this is to require a specifically designated informant to provide the needed information soon after the event has occurred.⁴⁶ The informant is the person who is legally required to report to the local registrar the occurrence and details of a vital event within the prescribed time limit.⁴⁷ The informant is important because the registrar can only register a vital event on the basis of the informant's declaration, either verbally or in writing.⁴⁸ The law should clearly and unequivocally ensure that there is one and only one person primarily responsible for serving this role; however, the law may designate individual alternatives.⁴⁹ The appropriate informant, in priority order of preference for birth, deaths and foetal deaths are given below.⁵⁰

Informant	Live Birth	Death by Natural Causes	Death by Unnatural or Suspicious Causes
Head of the institution where the event occurred/ health professional under whose supervision the event occurred	1	1	1
Mother	2		
Father	3		
Nearest relative of the mother	4		
The nearest relative (e.g., surviving spouse or partner; or brother, sister, father or mother of decedent)		2	2
Any other adult person having knowledge of the facts. ⁵¹	5	3	3
Medicolegal officer (police, coroner, medical examiner)			1

When vital events occur in health institutions, the most effective approach is to designate the head of the health institution as the primary informant for the event.⁵² Similarly, when a birth or death occurs at home under the care of a health professional (e.g., midwife, birth attendant, nurse, doctor), many countries find it effective to designate the health professional as the primary informant for the event.⁵³ In certain

⁴⁶ U.N. Principles and Recommendations for a Vital Statistics System, Revision 3, para. 281.

⁴⁷ U.N. Principles and Recommendations for a Vital Statistics System, Revision 3, paras. 349, 356.

⁴⁸ U.N. Principles and Recommendations for a Vital Statistics System, Revision 3, para. 351.

⁴⁹ U.N. Principles and Recommendations for a Vital Statistics System, Revision 3, para. 352.

⁵⁰ U.N. Guidelines on the Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, paras. 257, 312, 318.

⁵¹ U.N. Principles and Recommendations for a Vital Statistics System, Revision 3, para. 352 - 355.

⁵² U.N. Principles and Recommendations for a Vital Statistics System, Revision 3, para. 350.

⁵³ U.N. Guidelines on the Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, paras 257, 312, 318

circumstances, such as those involving unnatural causes (i.e. accident, suicide, homicide) and deaths occurring outside of health facilities without medical supervision, the medicolegal authorities (e.g., police, coroner, medical examiner) may be responsible for informing the registrar of the vital event. In particular, deaths by unnatural causes and non-medically supervised deaths are often underreported because many CRVS systems rely on families (rather than government authorities) to report these deaths. (See Chapter 11, on Medicolegal Death Investigations, for more detail).

When no other informant is able to report the vital events, any adult with knowledge of the facts should be required (or at least permitted) to report the vital event. Responsibility might be placed on other government officials, such as local government representatives, tribal leaders, or community health workers.⁵⁴ Religious actors who might be responsible for notifying home births or deaths could include priests, imams, or others presiding over naming ceremonies or funeral/burial ceremonies. Funeral directors may also be required to provide information to the registrar based on particulars collected about the decedent from next of kin.⁵⁵ Countries should consider how best to ensure that information from these possible informants is shared with the civil registrar – whether through an obligation to notify within a specified time period or by keeping a register that is shared with the civil registrar on a periodic basis.

The law should also address informants in the following situations. When a birth or death occurs on a ship or airplane, many countries place responsibility on the captain of the ship or airplane to act as the informant.⁵⁶ If a baby is found without any known guardians (called a “foundling”), the person or the head of the institution that assumes custody of the infant should be responsible for notifying the registrar of the birth.⁵⁷ When a person is brought in dead to a health facility, the law should place responsibility on the health facility or the medicolegal authorities to notify the death to the registrar.⁵⁸

Guidance: For each vital event, indicate the enumerated informants, any hierarchy, and whether each is permitted or required to report to the civil registrar, as well as any special procedures for reporting to the civil registrar. In the comments section below, state whether the law aligns with best practice and describe any gaps and/or opportunities for regulatory reform.

a. Live Birth Informants (Note any hierarchy and whether the informant is permitted/required to act. Also note any informants for births that occur on ships and airplanes and informants for foundlings):

Citations:

Comments:

b. Death Informants (Note any hierarchy and whether the informant is permitted/required to act. Also note any informants for deaths that occur on ships and airplanes. Specifically address informants for unnatural or suspicious deaths, including those brought in death to health facilities):

Citations:

Comments:

⁵⁴ U.N. Guidelines on the Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, paras 257, 312, 318.

⁵⁵ U.N. Principles and Recommendations for a Vital Statistics System, Revision 3, para. 350; Model State Vital Statistics Act and Model State Vital Statistics Regulations 2011. Revision, p. 29, lines 1219-1223.

⁵⁶ U.N. Guidelines on the Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, para. 306.

⁵⁷ U.N. Guidelines on the Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, para. 297.

⁵⁸ U.N. Guidelines on the Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, para. 341.

4. Place of Registration

Best Practice: A legal framework might limit registration of births and deaths to a primary registration area in a certain location: (1) the place of the event’s occurrence, (2) the place of usual residence of the mother (for birth) or the decedent (for death), or (3) either location. Allowing registration at the place of the event’s occurrence, rather than requiring registration at the place of residence, should facilitate and accelerate registration of vital events. If registration at both place of residence and place of occurrence is not practical, it is preferable to require vital events to be registered at the place of occurrence.⁵⁹ Note, however, that in the case of births, even where registration is limited to place of occurrence, the place of mother’s usual residence should still be recorded for statistical and legal purposes.⁶⁰

If a birth or death occurs in a moving vehicle, such as a ship, airplane, train or car, many countries consider the place of occurrence to be the place where the baby or the deceased is first removed from the vehicle.⁶¹

As CRVSID systems become more networked within countries, it may be possible to register a vital event at any point where the informant can access the system, as the information would go directly to a central database.⁶²

Guidance: Describe where registration of birth and death must occur (i.e., place of residence vs. place of occurrence vs. either, or anywhere the system may be accessed). In the comments section below, state whether the law aligns with best practice and describe any gaps and/or opportunities for regulatory reform.

a. Live Birth:

Citations:

Comments:

b. Death:

Citations:

Comments:

5. Time Allowed for Registration

Best Practice: Uniform processes and time periods for registering vital events should be applied throughout the country. The maximum time period allowed for registration should be as short as possible so as to facilitate current and accurate registration, and the timely production of population statistics. Deadlines are often between 14-30 days for birth registration and around 3 days for death registration, but vary by country.⁶³ A grace period of up to one year after the event has occurred may be allowed for extenuating

⁵⁹ United Nations, *Handbook of Vital Statistics Systems and Methods Volume I: Legal, Organizational, and Technical Aspects*, New York, 1991, paras 177-179.

⁶⁰ U.N. *Principles and Recommendations for a Vital Statistics System*, Revision 3, para. 358.

⁶¹ U.N. *Guidelines on the Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems*, paras 306, 377.

⁶² U.N. *Principles and Recommendations for a Vital Statistics System*, Revision 3, para. 92.

⁶³ U.N. *Handbook of Vital Statistics Systems and Methods Volume I: Legal, Organizational, and Technical Aspects*, paras 180-184.

circumstances.⁶⁴

As a practical matter, hospitals and health facilities should be able to notify births almost immediately if the system is computerized and linked to the registrar, while notification of out-of-facility events often take longer. To address this, the legislation may provide a maximum timeframe in which an event must be reported and the regulations may set a shorter time frame for specific circumstances, such as events that occur in facilities with computerized systems.⁶⁵

Guidance: Describe the deadlines for on-time registration. Pay attention to whether different informants have different deadlines. Indicate who, if anyone, has authority to modify these deadlines and under what circumstances. Note: Late and delayed registrations are discussed in Section 9 below. In the comments section, state whether the law aligns with best practice and describe any gaps and/or opportunities for regulatory reform.

a. Live Birth:

Citations:

Comments:

b. Death:

Citations:

Comments:

6. Cost of Registration

BestPractice: UN principles for a registration system state that there should be no charge for registering a birth or death.⁶⁶ Payment of any fee to register these vital events before the statutory deadline would act as a disincentive to timely registration. While some countries impose a fee if an event is registered after the deadline, this too may act as a disincentive to registration. Therefore, it is recommended to use incentives, rather than penalties, to encourage on-time registration.

Guidance: Include details of all fees and deadlines related to registration of births and deaths. Note that costs of receiving birth/death certificates are analyzed in Section 10 and need not be addressed here. In the comments section, state whether the law aligns with best practice and describe any gaps and/or opportunities for regulatory reform.

a. Fees for Live Birth Registration:

Citations:

Comments:

b. Fees for Death Registration:

⁶⁴ U.N. Principles and Recommendations for a Vital Statistics System, Revision 3, para. 363

⁶⁵ U.N. Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, para. 279.

⁶⁶ U.N. Principles and Recommendations for a Vital Statistics System, Revision 3, para. 364.

Citations:

Comments:

7. Information Required at Registration

Best Practice: Information collected during birth and death registration includes both legal information (the information that is entered into the register) and a wide variety of statistical information (the information used to generate vital statistics). (For more on statistical topics collected during civil registration, see Chapter 7 on Vital Statistics.) While the registrar should strive for complete legal and statistical information, an informant's inability to provide information for any one data field should not prevent registration.⁶⁷ For example, the need to name a father in the case of a birth to a single mother can be a major barrier to registration. While it is preferable that both parents are detailed in the registration record (in accordance with the Convention on the Rights of the Child), legislation should not prevent the registration of a child's birth if the mother cannot or will not name the father, or if the father refuses to acknowledge the child. For certain population groups, requiring disclosure to a government agency of citizenship status, nationality, ethnicity, religion, or other characteristics may act as a disincentive. In these situations, registration should be permissible without disclosing this information. For death registration, ideally there is a medically certified cause of death; however, lack of cause of death information should not prevent registration of death. (See Chapter 5 on Certifying Cause of Death).

Guidance: Describe the minimum information required in order to register a birth or a death. In the comments section, analyze whether any of the required data fields might present a barrier to birth or death registration.

a. Describe the minimum information required for birth registration.

Citations:

Comments:

b. Describe the minimum information required for death registration.

Citations:

Comments:

8. Proof Required to Register for On-time Registration

Best Practice: Registrars should require proof of the veracity of the information to be registered. The level of proof or evidence required for registration must be sufficiently stringent to provide assurance of the accuracy of the information without being so burdensome as to discourage registration.⁶⁸ Verification of the vital event can be achieved through documentary or oral evidence. Documentary evidence is always preferred,

⁶⁷ U.N. Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, para. 292, 357.

⁶⁸ U.N. Principles and Recommendations for a Vital Statistics System, Revision 3, paras 365-366.

with the most common forms of documentary evidence being a notification of birth, a notification of death, and a medical certificate of cause of death (MCCD) (See Chapter 5 for more on MCCD). Ideally, this documentary evidence is issued by the health facility or health professional with knowledge of the event, and is submitted directly to the civil registrar. However, if an event occurs without medical supervision, documentary evidence may not always be available and, in such cases, a witness to the event may be requested for registration.⁶⁹ (For documentary evidence that is required for late or delayed registrations, see Section 9.)

A notification of birth or death from the health sector constitutes critical documentary evidence of the occurrence of an event, which can be used to satisfy civil registration verification requirements. While the health sector should be the primary informant in accordance with best practice, if the family is the informant, the health sector should be required to issue a notification of birth or death to the family free of charge for all medically attended events.

Although cause of death information is essential for public health purposes, it should not be an absolute requirement to register a death.⁷⁰ In some countries, notification of the “fact of death” is verified by submitting the Medical Certificate of Cause of Death (MCCD) to the registrar. However, in places or circumstances where an MCCD is not available, this may create an impediment to registration. Therefore, proof or information on cause of death should not be required to register a death. (See Chapter 5 for more on MCCD). If an MCCD is not available, the death should be registered without cause of death information. A non-medical person should never be asked or required to provide cause of death information.

Laws may require the national ID number or ID card of the mother (and father, if available) for birth registration, and of next of kin for death registration. While this is generally good practice, rules should allow for alternative proof of identity for those who lack a national ID number or credential, such as those who live in remote areas, migrants, refugees, and stateless persons.

Guidance: Describe the documents or other evidence required to register a birth and death *within the statutory deadline*. Describe any requirement for medical professionals and/or the health sector to submit a notification of birth or notification of death to the registrar. If the family is the primary informant, describe any payment required for the issuance of a notification of birth or death to the family. Describe whether an MCCD or other proof of cause of death is required to register a death (address separately the requirements for medically attended deaths and deaths that occur without medical supervision).

In the comments section, state whether the law aligns with best practice and describe any gaps and/or opportunities for regulatory reform.

a. Evidence Requested to Register a Live Birth (medically attended and not medically attended):

Citations:

Comments:

b. Evidence Requested to Register a Death (medically attended and not medically attended):

Citations:

Comments:

⁶⁹ U.N. Principles and Recommendations for a Vital Statistics System, Revision 3, paras 365-366, 368; U.N. Handbook of Vital Statistics Systems and Methods Volume I: Legal, organizational and technical aspects, paras 189-192.

⁷⁰ U.N. Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, para. 321

9. Provision for Late and Delayed Registration

Best Practice: Deadlines for birth registration are often between 14-30 days and around 3 days for death registration, but vary by country.⁷¹ A late registration occurs after the legally specified time period, but within a grace period, usually one year after the vital event.⁷² Delayed registration occurs after the grace period.⁷³ While late registration should be discouraged so that vital events are registered in a timely manner, the procedures and proof required should not be so restrictive that they discourage late registration of events. Procedures should take account of the difficulties in finding or verifying evidence of past events while striving to maintain the integrity of the records.⁷⁴ Usually, late registration is allowed without much additional proof of the event. For delayed registration, additional proof (such as witnesses) may be required; however, this should not be so burdensome as to disincentivize registration. In addition, fees and penalties for late and delayed registration are generally not effective in preventing late and delayed registration, but instead act as a disincentive to registration.⁷⁵

Guidance: Describe the process and timelines for late and delayed registration of vital events. Note whether fees, the required proof, or other requirements are different for late and delayed registration compared to on-time registration. Indicate whether fees can be amended without legislative action. In the comments section, state whether the law aligns with best practice and describe any gaps and/or opportunities for regulatory reform.

a. Late and Delayed Live Birth Notification (time periods, evidence requested, fees):

Citations:

Comments:

b. Late and Delayed Death Notification (time periods, evidence requested, fees):

Citations:

Comments:

10. Process for sharing information between local and national civil registrar offices

Best practice: The national civil registration agency needs accurate and timely information collected from civil registration in order to maintain an up-to-date central civil registration database. And the national statistics agency must have accurate and timely statistical information collected from civil registration in

⁷¹ U.N. Handbook of Vital Statistics Systems and Methods Volume I: Legal, Organizational, and Technical aspects, para. 182.

⁷² U.N. Principles and Recommendations for a Vital Statistics System, Revision 3, para. 363.

⁷³ U.N. Principles and Recommendations for a Vital Statistics System, Revision 3, paras 369-370.

⁷⁴ U.N. Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, paras. 281-283, 353-354.

⁷⁵ U.N. Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, para. 30

order to generate vital statistics that can be used in decision making. Therefore, there must be clear procedures for transfer of information from local civil registrars to the national level.

The law should require the local civil registrar to submit information collected during civil registration to the central level agency on a regular and timely basis.⁷⁶ Ideally, this information is submitted at least monthly, to allow for timely updating of the national civil register and timely generation of vital statistics. In some countries, the local registrar submits civil registration to a mid-level registrar or official, who in turn forwards the information to the national level. This is also good practice.

The local civil registrar collects a wide variety of information during civil registration, including legal information, which is entered into the civil register, and additional statistical information, which is used to generate vital statistics. (See Chapter 7, Vital Statistics, for information on statistical topics). Therefore, the local civil registrar must submit the legal information along with a statistical report for each registered vital event.⁷⁷ This statistical report should not contain any identifying information, and is later submitted to the statistics agency. (Note that in some countries, this statistical report may be submitted directly to the statistics agency.)

Guidance: Describe the process for transferring information collected during civil registration from the local to the national level. In the comments section, describe whether the law aligns with best practice and note any recommendations for regulatory reform.

-
- a. **Describe the process for transfer of information from local civil registers to the central civil registration agency.** Include timeframes and describe the information submitted. Specifically note how legal information is submitted and how statistical information is submitted.

Citation:

Comments:

11. Unique Identity Codes

Best Practice: A Unique Identity Code (UIC) is a numeric or alphanumeric code assigned to an individual for life. Use of a UIC is a common way to share information across databases. However, not all countries use a UIC and in some countries the use of UIC to link information across databases is not legal due to privacy concerns.⁷⁸

For countries that use a UIC, a UIC should be assigned at birth registration, which facilitates linkage with the identity management and other data systems.⁷⁹ A UIC is assigned to only one person, and a person should have only one UIC within a jurisdiction.⁸⁰ A UIC generally cannot be changed except under specified circumstances, such as identity theft, and is retired or deactivated upon death.⁸¹ Country practices vary on the reuse of a UIC after its retirement. In some countries a UIC is never reused; in others a UIC is reused but only after a lengthy period of time, such as 50 to 100 years after the person's death.⁸²

⁷⁶ UN GOLF, paragraph 422.

⁷⁷ United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014. Paras. 328-334.

⁷⁸ U.N. Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, para. 104-105.

⁷⁹ U.N. Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, paras 437-440.

⁸⁰ However, it is possible to have a UIC in more than one jurisdiction if a person is a resident or citizen of more than one jurisdiction

⁸¹ U.N. Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, para. 94.

⁸² U.N. Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, para. 465.

The content of the alphanumeric characters in the UIC has important implications for security. When UICs were first introduced decades ago, character sequences were based on personal information, such as date and place of birth. However, character sequences based on personal information may be easily comprehended, allowing the information and/or the UIC to be used fraudulently or for discriminatory purposes (for example, if a person can be identified as a refugee based on the UIC).⁸³ Therefore, randomly generated unintelligible sequences are now preferred. Because a UIC is used to access services, it should be kept confidential and not displayed on birth certificates, as this may create the potential for identity theft.

Guidance: State whether UICs are in use in the country. If so, describe whether a UIC is assigned to all persons within the country (without discrimination) and at what age. Describe the character sequence of the UIC, including whether the character sequence is unintelligible, and whether a UIC sequence may be reused for another person after a period of years after retirement of the UIC. In the comments section, describe whether the law aligns with good practice and note any recommendations for regulatory reform.

a. Are UICs Assigned? Yes No

Citations:

Comments:

b. Is a UIC Assigned to All Persons Without Distinction or Discrimination? At What Age is a UIC Assigned?

Citations:

Comments:

c. Describe the Character Sequence of a UIC and Note any Potential Reuse:

Citations:

Comments:

12. Certified Copies of Vital Event Information

Best Practice: A key responsibility of the registrar is to issue birth and death certificates, which serve as official evidence of the information on vital events listed in the register. A certificate is a document, in paper or electronic format, issued by the registrar and containing all or part of the exact information included in the original vital record, and which, when issued by the registrar, has the full force and effect of the original vital record.⁸⁴ These certificates come in several forms, including a computer printout, a photocopy or reproduction of the original record, or a separate form with handwritten or typed information. Depending on the information required, the certificate may contain all the information from the register (full- or long-form) or limited information (partial- or short-form).⁸⁵

⁸³ U.N. Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, para. 441.

⁸⁴ Model State Vital Statistics Act and Model State Vital Statistics Regulations 2011 Revision, p. 4, lines 140-144. 81-

⁸⁵ U.N. Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, paras 284, 359.

The receipt of a birth or death certificate, which is required to access certain services, is often a significant incentive for registration. UN principles provide that issuance of the original certificate should be free of charge.⁸⁶ Charging for the original certificate at registration can serve as a disincentive for registration. However, the civil registration authority may charge for the issuance of additional copies of a certificate.

Because certificates may contain sensitive information and are often required to access certain private and governmental services and benefits, only interested parties or their legal representatives should be able to request certificates. Some countries issue “short-form” and “long-form” certificates. Short-form certificates contain limited information – such as full name, name of parents (for birth certificates), sex, place and date of birth, and/or place and date of death (for death certificates). Long-form certificates may include other information, which may be sensitive (such as issues of paternity and wedlock, cause of death information, etc.) and disclosure to the wrong person could violate the right to privacy. Only the immediate family, spouses, heirs, legal representatives, and third parties with a legitimate interest should have access to such sensitive information.⁸⁷ The local registrar should have authority to determine the legitimacy of such requests and to require proof of identity and relationship to the registrant. Government agencies may also require such information for legitimate purposes.

Guidance: Indicate who is able to receive certified copies of information on birth and death contained in the register, what evidence is required to prove the identity of the requester, and what information is contained in the certified copy (including long-form and short-form, if applicable). Include details of all fees payable in connection with receipt of the certified copy, and note any fee differences between the original certificate and additional copies. In the comments section, state whether the law aligns with best practice and describe any gaps and/or opportunities for regulatory reform.

a. Birth Certificate (information contained on the birth certificate; who can request and proof of identity; fees for original and duplicate):

Citations:

Comments:

b. Death Certificate (information contained on the death certificate; who can request and proof of identity; fees for original and duplicate):

Citations:

Comments:

13. Incomplete Records, Amendments, and Corrections

Best Practice: The law should contain clear provisions for amending records, including correcting errors and disputed entries, and name changes, legitimations, adoptions, and other changed circumstances. The civil registration agency should have authority to correct errors such as obvious spelling, date or typographical errors, and these types of changes should be permitted free of charge. Adding omitted information - such

⁸⁶ U.N. Principles and Recommendations for a Vital Statistics Systems, Revision 3, para. 364.

⁸⁷ U.N. Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, paras. 285-286, 360-361.

as late naming of a child or uncontested paternity information - should also be within the power of the civil registration authority. This relieves the applicant of having to spend time and money applying to the courts, and relieves the court of additional workload.⁸⁸ For corrections or amendments that involve changed circumstances or involve the rights of others (e.g., a spouse or a child), a registrant or their legal representative generally must apply directly to the courts. These types of amendments usually include adoption, surrogacy, paternity, divorce, annulment, and judicial separation. Country practices vary regarding name change. Some countries require a court order in order to change a name in the birth register; other countries allow registrars to approve name changes. In some jurisdictions, change of sex on a birth record and identity documents requires a court order and may also require proof of sex reassignment surgery. However, this is changing in some countries, which now allow a change of sex on birth certificates and identity documents without this overly burdensome requirement.⁸⁹

In some cultures, a child is not given a name until after a naming ceremony. Registration practices should be sensitive to those customs to minimize the number of name changes required, while ensuring timely registration of the birth. One way to achieve this is to register the birth with a “temporary” name of “baby boy/girl” and permit the addition or amendment of a name within a defined number of days — at which point the child’s name will be changed.⁹⁰

Guidance: Describe which types of amendments the registrars can make on his/her own and which can only be made following judicial intervention/court order. Describe all procedures facilitating or impeding delayed naming of a child pursuant to naming ceremonies or similar customs, including time periods, certificates to be delivered, etc. Note any process for legitimation or adoption of a child following initial registration of birth. In the comments section, state whether the law aligns with best practice and describe any gaps and/or opportunities for regulatory reform.

a. Corrections/Amendments that Can be Made by Registrar (for example, errors, omissions, uncontested information and late naming (if applicable)). Note if registrars can approve a name change. Distinguish between amendments that can be made by a local registrar and those that require approval from a higher level, such as the national registrar:

Citations:

Comments:

b. Amendments Requiring a Court Order (e.g., adoption, surrogacy, paternity, divorce, annulment, judicial separation, and sex change). Note if a name change requires a court order:

Citations:

Comments:

⁸⁸ U.N. Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, paras. 408-412.

⁸⁹ U.N. Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, paras 413-418.

⁹⁰ U.N. Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, paras 295-296.

14. Registration Linked to Access to Key Services and Other Incentives

Best Practice: Complete registration of births and deaths will be affected by demand from citizens for birth and death registration and certificates, particularly in systems where the family is the informant. Linking access to key services to birth/death registration can increase demand. Key services might include national IDs, passports, voter registration, drivers' licenses, access to the national health system or national insurance plan, burial permits, access to pensions (or the pensions of loved ones who have died), inheritance, and other property rights. Marriage and divorce may also be linked to birth or death registration. For example, a birth certificate may be required to prove age of consent to marry, and a deceased spouse' death certificate may be required to permit re-marriage. Some private companies may require certificates for access to services, such as life insurance, banking, cellphones, or Internet access.⁹¹ While requiring a certificate to access key services will certainly increase demand for civil registration, overly strict requirements can reduce access to these services —an unintended consequence that may violate the human rights of the unregistered person. For example, if a birth certificate is mandatory for school attendance, a child should not be deprived of an education if their family failed to register their birth. Instead, birth registration should be facilitated at the time of school enrollment.⁹²

There may also be incentives to register other than access to services. For example, some countries provide newborn kits (with items such as diapers, bottles and baby clothing) with birth registration, and subsidize costs for burial upon proof of death registration.⁹³

Guidance: Summarize whether and which civil registration documents are required to access key services, such as those listed above. Indicate whether registration is sufficient for access to the service or whether the person or family must present the certificate. In those cases, indicate whether the certificates are mandatory for access to the services or whether any alternative documents are permitted to access the system. Note that these rules are rarely included in the civil registration law, but are usually contained in laws related to the particular subject area (i.e., documents required to enroll in school may be found in education regulations). In the comments section, state whether the law aligns with best practice and describe any gaps and/or opportunities for regulatory reform.

a. What Services are Linked to Birth Registration and/or Having a Birth Certificate? (e.g., school, health, national ID document). Are alternative documents accepted?

Citations:

Comments:

b. What Services are Linked to Death Registration and/or Having a Death Certificate? (e.g., life insurance benefits, pension of deceased spouse, remarriage). Are alternative documents accepted?

Citations:

Comments:

c. Services Linked to Other Vital Event Registration/Certificate? Alternative documents accepted?

⁹¹ U.N. Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, paras 555-569.

⁹² UNICEF, A Passport for Protection: A Guide to Birth Registration Programming. Ch. 2, pages 66-67.

⁹³ U.N. Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, paras 564, 566

Citations:

Comment:

15. Burial Permits and Disposal of Bodies

Best Practice: UN guidance recommends that a country's legal framework require all deaths to be registered as a condition to issuing a permit for burial, cremation or other disposal of human remains.⁹⁴ This requirement may be included in national laws on cemeteries/crematoria, in municipal laws/regulations, or in the civil registration law.

The need for a permit to transport or dispose of a body is a significant incentive for ensuring that the death is registered.⁹⁵ The law should require that a death be reported to the registrar before a permit to dispose of the body is issued, as this incentivizes death registration.⁹⁶ To enforce this requirement, custodians of funeral and burial facilities and crematoriums should be required to request proof of notification of the death before proceeding with services.

If death registration is not required to obtain a burial permit, funeral facilities, cemeteries and crematoria may constitute an alternative entry point for ensuring that deaths are notified and/or registered. The heads of these facilities may be required to the informant or may be required to provide a periodic report on persons buried or cremated, in order for the registrar to determine if the deaths were registered.

Guidance: Describe the process for issuing a permit to bury, cremate or otherwise dispose of a body, including who issues the permit, whether prior reporting of the death to the registrar is required for permit issuance, and any timelines. Discuss whether funeral homes, cemeteries and crematoria must request a copy of the permit or request proof that the death was reported to the registrar before proceeding with disposal of the body. Indicate whether these service providers are required to share records with the civil registrar, or to act as the informant or notifier for unregistered deaths. In the comments section, state whether the law aligns with best practice and describe any gaps and/or opportunities for regulatory reform.

a. Requirements for Permit to Dispose of Body (issuing authority, whether reporting of the death to the registrar is required prior to permit issuance, and any timelines):

Citations:

Comments:

c. Are Funeral, Burial and Cremation Services required to request the burial permit or proof of reporting of the death?

⁹⁴ U.N. Principles and Recommendations for a Vital Statistics System, Revision 3, para. 362.

⁹⁵ U.N. Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, paras 363-365, 567.

⁹⁶ *Handbook on Civil Registration and Vital Statistics Systems: Management, Operation, Maintenance, Revision 1*, 2018, paragraphs 138 - 140.

Citations:

Comments:

d. Are Funeral, Burial and Cremation Service Providers required to share records with Civil Registrar (acting either as informant, or simply reporting bodies disposed of)?

Citations:

Comments:



Chapter

04

Stillbirth Reporting and Registration

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Why it is important:

Accurately counting the incidence and identifying the causes of stillbirths are an essential first step to reduce the estimated 2.6 million stillbirths that occur globally each year. Consistent information about the nature and cause of death for stillbirths is needed for health system planning, prioritizing resources, policy making, and improving the quality of care at the point of service delivery.⁹⁷ Data derived from stillbirth statistics can help guide the development of public health interventions focused on preventing or decreasing the incidence of stillbirths. In addition, official recognition and documentation that a stillbirth occurred can hold significance for families and facilitate the burial or cremation of the stillborn baby.⁹⁸

Acknowledgments: The authors would like to thank the following for their technical contribution: Carla Abouzahr, Vital Strategies;

⁹⁷ *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>

⁹⁸ *Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management*, United Nations, 2019, at paragraph 309, available at: <https://unstats.un.org/unsd/demographic-social/standards-and-methods/?topics=Civil%20Registration%20and%20Vital%20Statistics>

Ashley Frederes, Global Health Advocacy Incubator; Robert Jakob, World Health Organization; Fatima Marinho, Vital Strategies; and Srdjan Mrkic, United Nations Statistics Division.

Introduction

Reporting stillbirths is extremely important for statistical purposes. Statistics derived from stillbirth reporting can help guide the development of public health interventions focused on preventing or decreasing the incidence of stillbirths. Stillbirths are not the intended outcome of pregnancies, so their prevention is critical and should be informed by complete and accurate statistics. In addition, stillbirth reporting serves a legal and administrative function, as the right to bury a stillborn baby and access certain benefits for the parents, such as paid leave, may be tied to stillbirth reporting.

Birth and death registration, in addition to serving statistical and legal/administration functions, also serve an identity management function. Within the identity management system, birth registration establishes legal identity and death registration retires a legal identity.⁹⁹ Unlike birth and death registration, registration of stillbirths does not serve an identity management function. A stillbirth does not establish a legal identity and, therefore, stillbirths should not be entered into live birth and death registers.¹⁰⁰

This chapter covers the following topics:

1. Definitions
2. Two Methods of Reporting Stillbirths: Civil Registration and the Health Sector
3. Which Foetal Deaths to Report: Stillbirths
4. Informant/Reporter
5. Time Period for Reporting a Stillbirth
6. Place of Registration
7. Cost of Registration
8. Medical Certification of Cause of Death for Stillbirths
9. Statistical Information Collected
10. Proof of Reporting Prior to Issuance of Burial Permits
11. Foetal Death Certificates and Commemorative Stillbirth Certificates
12. Compilation of Vital Statistics on Stillbirths

1. Definitions

Best Practice: Clear and consistent definitions are necessary to establish a system for collecting high-quality data. Aligning definitions with international standards will help countries track development progress and meet international reporting requirements. The definitions listed below are important to understand when discussing stillbirths. In addition to defining “stillbirth”, definitions are provided for “foetal death”, “live birth”, “death”, “neonatal death”, and “perinatal death.” It is important to understand the distinction between a stillbirth and these other events.

Foetal Death is defined by the World Health Organization (WHO) as:

Death prior to the complete expulsion or extraction from its mother of a product of conception, irrespective of the duration of the pregnancy. The death is indicated by the fact that after such separation the foetus does not breathe or show any other evidence of life, such as beating of the heart, pulsation of the umbilical cord or definite movement of voluntary muscles.¹⁰¹

A foetal death is a distinct vital event and should be distinguished from “live birth” and “death,” which the United Nations (UN) defines as follows:

Live birth is the complete expulsion or extraction from its mother of a product of conception,

⁹⁹ *Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management*, paragraph 61-62.

¹⁰⁰ *Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management*, paragraph 309.

¹⁰¹ *Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management*, paragraph 70.

*irrespective of the duration of pregnancy, which, after such separation, breathes or shows any other evidence of life, such as beating of the heart, pulsation of the umbilical cord, or any definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.*¹⁰²

*Death is the permanent disappearance of all evidence of life at any time after live birth has taken place (post-natal cessation of vital functions without capability of resuscitation).*¹⁰³

Note that the definition for “death” excludes foetal deaths.

Stillbirths are a subset of foetal deaths and can occur before the onset of labor (*ante partum*) or after the onset of labor but before birth (*intra partum*).¹⁰⁴ The threshold criteria used to classify stillbirths varies across countries, creating challenges for international statistical comparison. For national statistical purposes, the WHO recommends using the following criteria to define a stillbirth: a foetus with weight greater than or equal to 500 grams, or gestational age greater than or equal to 22 completed weeks, or body length greater than or equal to 25 cm. However, in statistics for international comparison, inclusion of the extremely low-birth-weight group disrupts the validity of comparisons and is not recommended. Therefore, for international statistical purposes, the WHO recommends using the following criteria: a foetus weighing greater than or equal to 1000 grams; or gestational age greater than or equal to 28 completed weeks; or body length greater than or equal to 35 cm.¹⁰⁵ (For more on this topic see Section 3 below.)

A *miscarriage*, also called a spontaneous abortion in medical terminology, is a foetal death that occurs before the gestational threshold set as the national criteria for a stillbirth. For example, if a country uses 22 weeks as the national gestational criteria for a stillbirth, a miscarriage is any foetal death that occurs before 22 completed weeks gestation. If a country uses 20 weeks as the national gestational criteria, a miscarriage is any foetal death before that period.

Stillbirths and miscarriage (aka spontaneous abortion) should not be confused with *induced abortion*, defined as a pregnancy intentionally terminated by medication or a procedure that results in the death of the foetus.¹⁰⁶ In the case of stillbirth and miscarriage, the foetal death prior to expulsion is not intended.

Other important medical terms relevant in the context of infant death and foetal death are *early neonatal death*, *neonatal death*, and *perinatal death*.

The neonatal period refers to the first 28 days of life. The early neonatal period is the first 7 days after birth, and the late neonatal period extends from 7 days to 28 completed days. The first day of life, the 24 hours following the birth, is typically considered “day 1” in clinical practice, but “day 0” in surveys and vital registration. In this chapter we refer to the first day of life as “day 1”; therefore, days 1–7 constitute the *early neonatal period*, days 8–28 are the *late neonatal period*, and days 1–28 are the *full neonatal period*.¹⁰⁷ As such, a *neonatal death* is the death of an infant during the first 28 days of life; an *early neonatal death* is the death of an infant during the first 7 days of life; and a *late neonatal death* is the death of an infant during days 8 through 28.

The perinatal period covers the time period after 28 weeks completed gestation through the first 7 days after birth. Therefore, *perinatal deaths* include stillbirths and all early neonatal deaths (1-7 days).¹⁰⁸

Studies have revealed misclassification of early neonatal deaths and stillbirths, which can impact a

¹⁰² *Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management*, paragraph 68.

¹⁰³ *Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management*, paragraph 69.

¹⁰⁴ *Making Every Baby Count: Audit and review of stillbirths and neonatal deaths*, page 18.

¹⁰⁵ *International statistical classification of diseases and related health problem, 5th edition*, World Health Organization, 2016, Volume 2, sections 5.7.2, 5.7.3 and 5.14, available at https://icd.who.int/browse10/Content/statchtml/ICD10Volume2_en_2019.pdf

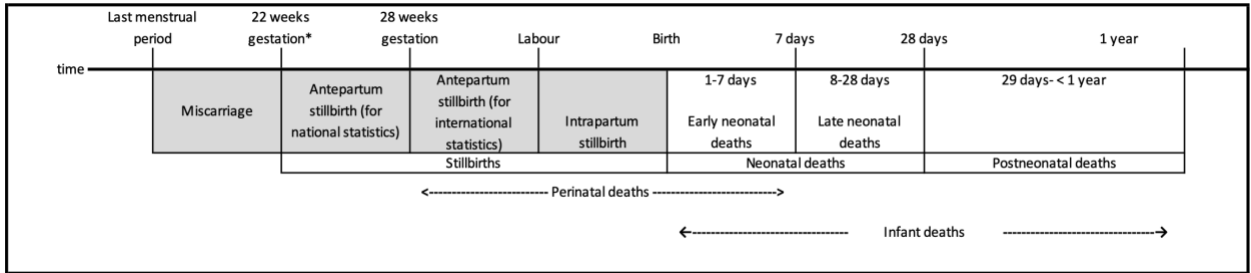
¹⁰⁶ *Standard Terminology for Fetal, Infant, and Perinatal Deaths*, Pediatrics, Vol. 128, Issue 1, 1 Jul 2011, available at: <https://pediatrics.aappublications.org/content/128/1/177>

¹⁰⁷ *Making Every Baby Count: Audit and review of stillbirths and neonatal deaths*, page 19.

¹⁰⁸ Some definitions of perinatal mortality also include the late neonatal period; however, this is a less common practice. See *Making Every Baby Count: Audit and review of stillbirths and neonatal deaths*, page 20.

country's vital statistics as misclassification may result in the over or under reporting of stillbirths, live births, and deaths. Clear definitions of these events should be included in the law and disseminated among providers and informants to help ensure that vital events are accurately captured.

Figure 1 shows the timeline for distinguishing miscarriage, stillbirth, neonatal death, and perinatal death.



*Note: This figure is based on a national threshold criteria of 22 weeks gestation for stillbirths. If the national threshold criteria for stillbirths is less than 22 weeks, the time periods for “miscarriage” and “stillbirths for national statistics” should be adjusted accordingly.

Guidance: State whether the terms below are defined in the legal framework. If so, provide the definition and the citation to the definition. For purposes of stillbirth reporting, the law should define, at a minimum, live birth, death, foetal death, and stillbirth. Other important terms may be defined, but may not be necessary, depending on the focus and structure of the law. In the comments sections, analyze whether the definitions (if any) align with the UN/WHO definitions listed above.

a. Live Birth: Defined: Yes No

Definition:

Citations:

Comments:

b. Death: Defined: Yes No

Definition:

Citations:

Comments:

c. Foetal Death: Defined: Yes No

Definition:

Citations:

Comments:

d. Stillbirth: Defined: Yes No

Definition:

Citations:

Comments:

e. Other important terms

Definition:

Citations:

Comments:

2. Two Methods of Reporting Stillbirths: Civil Registration and the Health Sector

Best Practice: There are two methods of reporting¹⁰⁹ stillbirths for statistical purposes. One method is reporting through the civil registration system and the other method is reporting by the health sector to the Ministry of Health. Both methods are considered international good practice.

a. Reporting Through Civil Registration

In this method, a stillbirth is registered through the civil registration system, usually in a separate register called a “foetal death register” or a “stillbirth register”. The UN recommends that a stillbirth should not be registered in the “live birth register” or the “death register”, as a stillbirth does not establish a legal identity or affect civil status.¹¹⁰ However, some countries include stillbirths in a “birth register”, which includes both live births and still births. If a country follows this practice, it should ensure that the birth register clearly notes the birth as a stillbirth in order to facilitate the separation of these different vital events for correct calculation of live birth and stillbirth statistics. This is more easily done in digitized registers, and should be discouraged in paper systems. In addition, a stillbirth should never be entered into the death register, as this would interfere with correct calculation of death statistics.

It is important to differentiate between a stillbirth and a neonatal death. A neonatal death is a live birth followed by a death within the first 28 days of life. A neonatal death is registered in both the “live birth register” and the “death register”, even if these events occur within a short time span; however, a stillbirth should be recorded in a separate stillbirth register (or in a “birth register”, which includes live births and stillbirths, as noted above).

As with births and deaths, the Registrar General is responsible for submitting anonymized stillbirth statistical information (see section 10, below) to the national statistics agency for compilation of vital statistics on stillbirths.

b. Reporting by the Health Sector

¹⁰⁹ Countries vary in their use of ‘registration’ and ‘reporting’ in describing the process to capture stillbirths in vital statistics. In this chapter, reporting will be used to describe the process for both methods- health sector and civil registration. Registration will be used when describing the process only for the civil registration system.

¹¹⁰ *Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management*, paragraph 309.

In this method the health sector, including public and private health facilities, are responsible for reporting stillbirths to the Ministry of Health (MoH). In some countries, the MoH is responsible for sending anonymized stillbirth information to the national statistics agency, which then compiles statistics on stillbirths. In other countries, the MoH itself is responsible for compiling statistics on stillbirths. Either is good practice.

c. Hybrid Systems

Some countries follow a hybrid practice, reporting late stillbirths (28 or more weeks completed gestation) through civil registration system and early stillbirths (22 to 28 weeks completed gestation) through the health sector to MOH. This is also considered international good practice. In a hybrid system, the MOH or the national statistics agency may be responsible for compilation of early stillbirth (22-28 weeks gestation) statistics, and the national statistics agency is generally responsible for compilation of late stillbirth (greater than 28 weeks gestation) statistics.

Guidance: Describe whether stillbirths are reported through the civil registration system, the health sector, or a combination of the two. If a hybrid system is used, be sure to answer all questions below. Provide citations to the relevant laws or documents. In the comments section, note whether the law is clear as to which reporting method is followed.

a. Are stillbirths registered in the civil registration system? Yes No

Citations:

Comments:

b. If yes, is a separate register used for the registration of stillbirths or are stillbirths recorded in a birth register that include both live births and stillbirths?

Separate stillbirth register Birth Register with both live births and stillbirths

Citations:

Comments:

c. Are stillbirths reported through the health sector? Yes No

Citations:

Comments:

3. Which Foetal Deaths to Report: Stillbirths

Best Practice: Regardless of whether stillbirths are reported through the civil registration system or by the health sector to MoH, there should be clear threshold criteria for reporting stillbirths.

The WHO recommends that all foetal deaths involving foetuses weighing at least 500 grams should 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. The inclusion of fetuses weighing between 500 and 1000 grams in *national* statistics is recommended, both because of its statistical value and because it improves the coverage of reporting at 1000 grams and over.¹¹¹

Given the variability in foetal size across countries, inclusion of the extremely low-birth-weight group in statistics for *international comparison* disrupts the validity of comparisons and is not recommended. Therefore, for *international statistics*, countries should report and include foetuses 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 used.¹¹²

The WHO in version 10 of the International Classification of Diseases (ICD) recommends that the criteria for deciding whether a foetal death has taken place should be applied in the order: (1) birth weight; (2) gestational age; (3) crown–heel length.¹¹³ However, in other WHO publications, the WHO recognizes that in many countries and settings, weight or length of the foetus may not be available. In those settings, if a single threshold parameter is used, the WHO recommends using gestational age, as it is a better predictor of viability than birth weight and information about gestational age is more likely to be available.¹¹⁴

With neonatal care improvements and increases in survivability of preterm deliveries, some countries use a lower gestational age threshold for national statistics purposes. Some countries, for example, define and record stillbirths as early as 20 weeks gestation, and likewise track outcomes for babies born alive as early as 20 weeks gestation. Most live-born babies in countries with well-resourced neonatal intensive care units can survive even if born as early as 20 weeks of gestation. Thus, while the WHO’s recommends a threshold of 28 completed weeks of gestation for international reporting, and a threshold of 22 completed weeks of gestation for national reporting, it is important to note that these thresholds might miss earlier stillbirths, thus undercounting the true burden.¹¹⁵

Guidance: State which stillbirths are reported through the civil registration system and/or the health sector. Note the threshold parameters for reporting stillbirths and provide citations to the relevant laws or documents. If a hybrid system is in place, note the thresholds for reporting to both MOH and the civil registration system. In the comments section, analyze and describe whether the current practice aligns with best practice.

-
- a. Which stillbirths (if any) are reported to the civil registration system and/or the MOH? Note the threshold parameters.

Citations:

Comments:

4. Informant/Reporter

Best Practice:

- a. **Registering Stillbirths through Civil Registration**

¹¹¹ ICD-10 volume, sections 5.14, available at https://icd.who.int/browse10/Content/statichtml/ICD10Volume2_en_2019.pdf

¹¹² ICD-10 volume, sections 5.14, available at https://icd.who.int/browse10/Content/statichtml/ICD10Volume2_en_2019.pdf

¹¹³ ICD-10 volume, sections 5.14, available at https://icd.who.int/browse10/Content/statichtml/ICD10Volume2_en_2019.pdf

¹¹⁴ *Making Every Baby Count: Audit and review of stillbirths and neonatal deaths*, World Health Organization, 2016, page 18.

¹¹⁵ *Making Every Baby Count: Audit and review of stillbirths and neonatal deaths*, World Health Organization, 2016, page 18.

Registration records should be completed as soon as possible after the vital event occurs. The simplest and quickest method to achieve this is to require an “informant” to provide the needed information soon after the event occurs.¹¹⁶ The informant is “the individual or institution whose responsibility, designated by law, is to report to the registrar the fact of the occurrence of a vital event and to provide all the information on and all the characteristics of the event. Based on such a report, the event may be legally registered by the registrar.”¹¹⁷ The role of an informant is important because the registrar can only register a vital event on the basis of the informant’s declaration, either verbally or in writing.¹¹⁸

The UN recommends the following as the primary informant for a stillbirth, in order of priority: 1) the head of the health facility (for a stillbirth that occurred in a health facility) or the birth attendant or other medical professional (for a stillbirth that occurred outside a health facility with medical supervision), 2) the mother, 3) the father, 4) the nearest relative of the mother, 5) any other adult person having knowledge of the facts.¹¹⁹

When vital events occur in health institutions, the most effective approach is to designate the head of the institution as the primary informant for the event.¹²⁰ This ensures that complete and accurate information is provided to the registrar within a short time period after the event. Similarly, when a vital event occurs at home under the care of a health professional (e.g., midwife, birth attendant, nurse, physician), many countries find it effective to designate the health professional as the primary informant for the event.¹²¹ As the informant, the head of the health facility or the attending health professional should be required to provide to the registrar *all* the legal and statistical information necessary to register the stillbirth. Based on this information, the registrar registers the stillbirth. The family is not required to take any additional steps. This is a one-step process.

Some countries follow a two-step process. In this process, the head of the health facility or the attending medical professional submits a notification of stillbirth to the registrar and provides a copy to the parent(s). To complete the registration process, the parent must then submit the copy of the notification of stillbirth, together with any other required information, to the registrar. The registrar cannot register the stillbirth until the parent provides this information. Therefore, the parents are the informant in this process and the health facility/health professional is the notifier. This two-step process may result in lower registration rates because parents may fail to complete registration.

b. Reporting Stillbirths Through the Health System

We do not use the term “informant” if stillbirths are tracked only through the health sector. Nonetheless, the same institutions and personnel are involved in reporting stillbirths under this method. For stillbirths that occur in a health facility, the head of the health facility (or their designee) is responsible for reporting stillbirths to the MoH. For a stillbirth that occurs at home, the birth attendant or other medical professional that attends the stillbirth is responsible for reporting this information. In some countries, these birth attendants/medical professionals report the stillbirth to the local health facility, which is then responsible for reporting to MoH. In other countries, the birth attendant/medical professional reports the stillbirth directly to MoH.¹²²

c. Stillbirths Occurring Without Medical Supervision

In many countries, home births are common. Therefore, many stillbirths also occur at home. At-home stillbirths that occur without medical attention are harder to track. However, even in this scenario, the

¹¹⁶ Principles and Recommendations for a Vital Statistics System, Revision 3, United Nations, New York, 2014, paragraph 281, available at: <https://www.un.org/development/desa/capacity-development/tools/tool/principles-and-recommendations-for-a-vital-statistics-system-revision-3/>

¹¹⁷ *Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management*, paragraph 224.

¹¹⁸ Principles and Recommendations for a Vital Statistics System, paragraph 351.

¹¹⁹ *Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management*, paragraph 312.

¹²⁰ Principles and Recommendations for a Vital Statistics System, paragraph 350.

¹²¹ Guidelines on the Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, paragraphs 257, 312, 318.

¹²² *Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management*, paragraph 313.

health sector has an important role to play. For example, if an at-home stillbirth was not attended by a medical professional, the mother may have had contact with a community health worker during her pregnancy and may seek medical care after the stillbirth occurs. In some countries, if a woman seeks medical care after a stillbirth, the health facility or medical professional that cares for the woman is responsible for reporting the stillbirth to the registrar or through the health system (depending on which tracking method is used). If a woman does not seek medical care, but a community health worker becomes aware of a stillbirth that occurred at home without medical supervision, that community health worker may be responsible for following up with the woman and reporting the stillbirth to the registrar or through the health sector (depending on which tracking method is followed).

Guidance: If your country registers stillbirths through the civil registration system, follow the guidance for Section (a) and complete the questions. If your country reports stillbirths through the health sector, follow the guidance for Section (b) and complete the questions. If your country reports stillbirths through both methods, complete all questions.

a. Registering through Civil Registration

If your country reports stillbirths through the civil registration system, answer the following questions and provide citations to the relevant laws or documents. In the comments section, analyze and describe whether the current practice aligns with best practice.

- i. Who is the informant for a stillbirth that occurs in a health facility? Describe the process, including any actions required by the health facility and/or any actions required by the family to notify or inform the registrar of the stillbirth.

Citations:

Comments:

- ii. Who is the informant for a stillbirth that occurs at home with a birth attendant or medical professional? Describe the process, including any actions required by the birth attendant or medical professional and any actions required by the family to notify or inform the registrar of the stillbirth.

Citations:

Comments:

- iii. Who is the informant for a stillbirth that occurs at home without a birth attendant or medical professional? Describe the process, including any actions required by health professionals and/or any actions required by the family to notify or inform the registrar of the stillbirth.

Citations:

Comments:

b. Reporting by the health sector

If your country reports stillbirths through the health sector, answer the following questions and provide citations to the relevant laws or documents. In the comments section, analyze and describe whether the current practice aligns with best practice.

- i. Who is responsible for reporting a stillbirth that occurs in a health facility? Describe the reporting process.

Citations:

Comments:

- ii. Who is responsible for reporting a stillbirth that occurs at home with a birth attendant or medical professional? Describe the reporting process.

Citations:

Comments:

- iii. Who is responsible for reporting a stillbirth that occurs at home without a birth attendant or medical professional? Describe the reporting process.

Citations:

Comments:

5. Time Period for Reporting a Stillbirth

Best Practice: If stillbirths are reported through the civil registration system, the law should specify the timeframe within which the informant must report to the registrar.¹²³ For countries with a two-step process, the law should specify the timeframes for notification from the health sector and reporting by the informant. Country practices vary, with some countries requiring reporting within the same timeframe for a death, and other countries requiring reporting within the same timeframe for a live birth.¹²⁴ Thus, these time periods can vary, but are usually within 3 – 30 days.

If stillbirths are tracked through the health sector, health facilities and health professionals should be required to report stillbirths to the MoH on a regular and timely basis. Again, these practices vary from country to country, but timeframes are usually within 3 – 30 days.

Given the public health importance of stillbirth statistics to inform prevention programs, stillbirth reporting should be timely and should not exceed the recommended 30-day period.

Guidance: Describe the timeframe for reporting stillbirths. For countries that track stillbirths through the civil registration system, note any timeframes that apply to actions by the health facility/health professional and any timeframes that apply to actions by the family. For countries that track stillbirths through the health sector, note any timeframes that apply to health facility/health professional reporting. Provide citations to the relevant laws or documents. In the comments section, analyze and describe whether the current practice aligns with best practice.

-
- a. Time periods:

¹²³ *Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management*, paragraph 313.

¹²⁴ *Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management*, paragraph 313.

Citations:

Comments:

6. Place of Registration [Complete this section only if your country tracks stillbirths through civil registration]

Best Practice: Traditionally, legislation has limited registration of vital events to a primary registration area in a certain location. The place of registration of a vital event can be the place of occurrence, or the place of usual residence, or either. Allowing registration at the place of the event's occurrence, rather than requiring that it occur at the place of residence, should facilitate and accelerate registration of vital events. If registration at both place of residence and place of occurrence is not practical, it is preferable to require vital events to be registered at the place of occurrence.¹²⁵ If stillbirths are registered at place of occurrence, the place of mother's usual residence should still be recorded for statistical and legal purposes.¹²⁶ (See Section 9 – Statistical Information Collected).

As CRVSID systems become more networked within countries, it may be possible to register a vital event at any point where the informant can access the system, as the information would go directly to a central database.¹²⁷

Guidance: Describe where registration of a stillbirth must occur (i.e., place of residence vs. place of occurrence vs. either, or anywhere the system may be accessed). Provide citations to the relevant laws or documents. In the comments section, analyze and describe whether the current practice aligns with best practice.

-
- a. Where must a stillbirth be registered?

Citations:

Comments:

7. Cost of Registration [Complete this section only if your country tracks stillbirths through civil registration]

Best Practice: The UN recommends that there be no charge for registering a stillbirth,¹²⁸ as a fee to register a stillbirth before the statutory deadline can act as a disincentive to timely registration. While some countries impose a fee if an event is registered after the deadline, this too may act as a disincentive to registration.

Guidance: State whether a fee is charged for timely registration of a stillbirth. State any fees for late or

¹²⁵ United Nations, *Handbook of Vital Statistics Systems and Methods Volume I: Legal, Organizational, and Technical Aspects*, New York, 1991. p. 20, paras. 177-179.

¹²⁶ *Principles and Recommendations for a Vital Statistics System*, paragraph 358.

¹²⁷ *Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management*, paragraph 270.

¹²⁸ *Principles and Recommendations for a Vital Statistics System*, paragraph 364.

delayed registration. (Note: the cost of receiving a stillbirth certificate is discussed in Section 10.) Provide citations to the relevant laws or documents. In the comments section, analyze and describe whether the current practice aligns with best practice.

-
- a. State any fees charged for on-time, late and delayed registration of a stillbirth:

Citations:

Comments:

8. Medical Certification of Cause of Death for Stillbirths

Best Practice: Understanding the cause of death (“COD”) for all deaths is critical to ensuring that usable mortality data is available in a country. Medical certification of COD is “all those diseases, morbid conditions or injuries, which either resulted in or contributed to death and the circumstances of the accident or violence which produced such injuries.”¹²⁹ Ideally, all stillbirths should have a medically certified cause of death assigned by a physician. However, the inability to medically certify a cause of death should not prevent the registration or reporting of a stillbirth.

The WHO recommends using the International form of Medical Certification of Cause of Death (MCCD) for the medical certification of stillbirths.¹³⁰ This is the same form used for medical certification of cause of death for all deaths and replaces the previously recommended perinatal death certificate. This MCCD form may be a separate form from the Notice of Stillbirth Form (see Section 4 above), or embedded into the Notice of Birth Form, or a bifurcated form may be developed in which the MCCD is one portion of the form and the Notice of Birth is another portion of the form.

A certifier of COD is the person authorized by law to medically certify the underlying and contributory causes of death, and other facts related to the death, for submission to the local registrar or other appropriate authority.¹³¹ Only trained physicians should certify cause of death. For stillbirths that occur with physician supervision (whether in or outside a health facility), the physician who attended the stillbirth or cared for the mother should be responsible for certifying the cause of death.

The WHO application of the mortality codes in the International Classification of Diseases to deaths during the perinatal period (ICD-PM) should be used to code medically certified stillbirths. ICD-PM aims to link stillbirths and neonatal deaths to contributing maternal conditions, where applicable, in a way that is consistent across all settings. This will help standardize and increase the amount of available information on causes of stillbirths and neonatal deaths around the critical time of childbirth.¹³² (For more on ICD coding, see Chapter 5, Section 3). Countries that maintain a separate medical certification form for the certification of perinatal deaths should include in the form the data fields recommended by the WHO in the ICD.¹³³ (See Annex 1 for a list of these WHO recommended variables).

In countries with high rates of institutionalized deliveries, medically unattended stillbirths should be treated like a medically unattended death and referred to the medicolegal death investigation system (MLDI) for medical certification of cause of death. (See Chapter 11 for more on MLDI). In countries with

¹²⁹ *International statistical classification of diseases and related health problem, 5th edition, Volume 2*; See also *Health Topics*, World Health Organization website, available at: https://www.who.int/bulletin/volumes/84/3/mortality_glossary/en/

¹³⁰ *International statistical classification of diseases and related health problem, 5th edition, Volume 2*, page 140.

¹³¹ *Principles and Recommendations for a Vital Statistics System*, page 202.

¹³² *Making Every Baby Count: Audit and review of stillbirths and neonatal deaths*, pages 17, 21.

¹³³ *International statistical classification of diseases and related health problem, 5th edition, Volume 2*, page 141.

low rates of institutionalized deliveries, it may not be feasible to refer medically unattended stillbirths to the MLDI system. In those countries, a local health worker should determine whether the stillbirth might be due to unnatural or external causes, and if so, to refer the case to MLDI.

In countries that register stillbirths through the civil registration system, the health facility, medical practitioner, MLDI authority, or medical personnel working with the MLDI authority that completed the MCCD should be responsible for submitting the MCCD to the registrar or directly to the statistics agency. In countries that report stillbirths through the health sector, the health facility, medical practitioner, MLDI authority, or medical personnel working with the MLDI authority that completed the MCCD should be responsible for submitting the MCCD to the MoH. (See Section 12 below for more on Compilation of Vital Statistics on Stillbirths).

Guidance: Answer the following questions regarding medical certification of cause of death for stillbirths. Provide citations to the relevant laws or documents. In the comments section, analyze and describe whether the current practice aligns with best practice.

-
- a. Are stillbirths required to have a medically certified cause of death in order to be reported or registered?

_____ Yes _____ No

Citations:

Comments:

- b. What form is used to medically certify cause of death for a stillbirth?

Citations:

Comments:

- c. Who is responsible for medically certifying cause of death for a stillbirth? Specify the certifier for medically supervised and non-medically supervised stillbirths.

Citations:

Comments:

- d. State which agency is responsible for ICD coding for medically certified stillbirths.

Citations:

Comments:

- e. To what agency must the certifier submit the MCCD in the case of stillbirths? (e.g., registrar, statistics agency, MoH)?

Citations:

Comments:

9. Statistical Information Collected

Best Practice: The UN recommends specific topics that should be recorded during civil registration in order to generate vital statistics. These topics are divided into high priority topics, which should be collected by all countries, and lower priority topics, which countries should strive to collect as their systems evolve over time. The UN recommended statistical topics for foetal deaths, shown in the chart below,¹³⁴ should be recorded regardless of whether stillbirths are reported through the civil registration system or through the health sector.

Two topics deserve added explanation. First, the place of usual residence of the mother is a high priority topic. It is important to collect the usual residence of the mother regardless of whether reporting is through civil registration or the health sector, or reported at place of occurrence or place of residence (see Section 6). Place of mother's residence enables data analysts and policymakers to discern if the rate of occurrence of stillbirths in certain areas of the country displays unexpected trends. However, while usual place of residence of the mother is collected, due to the sensitive nature of stillbirth reporting, it is important not to record any identifying information of the mother or father as this creates privacy concerns. This differs from live birth registration, where the name of the mother and father are recorded in the register. Second, the UN recommends recording the date of the last menstrual period of the mother, which is used to calculate gestational age, as a lower priority topic. However, given that the WHO recommends reporting stillbirths using gestational age as a threshold criteria, in practice this is treated like a high priority topic.

Guidance: To compare the various requirements against best practices, complete the worksheet below. In the comments section, analyze and describe whether the current practice aligns with best practice.

	Best Practice: Foetal Death	Actual Practice: Foetal Death
Characteristic of Event [●=High Priority, ○= Lower Priority]		
Date and Place of Registration	●	
Date and Place of Occurrence	●	
Attendant at birth	○	
Type of Birth (twin, triplet, etc.)	○	
Type of place of occurrence (hospital, home, etc.)	○	
Cause of Death	○	
Certifier	○	
Characteristics of Foetus [●= High Priority, ○= Lower Priority]		
Sex	●	
Weight at stillbirth	○	
Delivered in wedlock	○	
Date of last menstrual period of mother (gestational age is derived from this)*	○	
Characteristics of Mother/Father [▼=Mother ▲=Father; ▼/▲=		

¹³⁴ UN Principles and Recommendations for a Vital Statistics System, Revision 3, at paragraph 66, Table III.1.

	Best Practice: Foetal Death	Actual Practice: Foetal Death
high priority, ▽/△ = Lower Priority]		
Date of birth	▼/▲	
Educational Attainment	▽/△	
Literacy status	▽/△	
Ethnic and/or national group	▽/△	
Citizenship	▽/△	
Economic activity status	▽/△	
Usual occupation	▽/△	
Place of usual residence	▼/▲	
Duration of residence in usual place	▽/△	
Place of previous residence	▽/△	
Ethnic and/or national group	▽/△	
Citizenship	▽/△	
Place of birth	▽/△	
Number of prenatal visits	▽	
Month of pregnancy prenatal care began	▽	
Children born alive to mother during her entire lifetime	▼	
Children born to mother during her entire lifetime and still living	▽	
Foetal deaths to mother during her entire lifetime	▼	
Date of last previous life birth	▼	
Date of marriage	▼	

*Note: Although the UN designates “date of last menstrual period of mother” as lower priority, in practice this is treated like a high priority topic because stillbirths are reported using gestational age as a threshold criteria (see guidance above).

Citations:

Comments:

10. Proof of Reporting Prior to Issuance of Burial Permits

Best Practice: In most countries, when a stillbirth occurs in a health facility, the family is offered the option of the health facility carrying out disposal of the stillborn baby or releasing the stillborn baby to the family for burial or cremation. If the family chooses to bury or cremate the stillborn baby, the provider of the funeral, burial or cremation service should be required to request proof that the stillbirth was

reported to the registrar or the health system before final disposition.¹³⁵ This helps ensure that stillbirths are registered or reported.

The type of proof required varies by type of system. Generally, in systems where the health facility is the informant for stillbirth registration (in a one-step process) or responsible for reporting to the MoH, the health facility or medical professional that attended the stillbirth provides a copy of a document, such as a stillbirth notification or medical record of stillbirth, to the family. This document provides the family proof that the health sector has fulfilled its reporting function and allows the family to bury or cremate their stillborn baby. In countries where the family is the informant, the registrar provides the family a certificate of stillbirth registration (also called a certificate of foetal death registration) or some other document proving that the family reported the stillbirth. Note that in some countries it may not be possible to immediately issue a stillbirth registration certificate, as the process of verifying and officially entering the information into the register can take days or longer. Therefore, a document that demonstrates the stillbirth has been reported is sufficient. Regardless of the type of proof required for final disposition, this proof should be provided free of charge.

Guidance: Answer the questions below regarding any documentation required to prove the reporting of a stillbirth prior to burial or cremation of a stillborn baby. Provide citations to the relevant laws or documents. In the comments section, analyze and describe whether the current practice aligns with best practice.

-
- a. [For systems where the health sector is the informant for registration or reports to the MoH]: Is the health facility or medical professional that attended the stillbirth required to issue a document to the family that proves that the stillbirth was reported? If yes, is this document provided free of charge?

Citations:

Comments:

- b. [For systems where the family is the informant for stillbirth registration]: Is the registrar required to issue to the family a stillbirth registration certificate or some other document proving that the family fulfilled its duty to report the stillbirth? Is this document issued free of charge?

Citations:

Comments:

- c. Are funeral, burial and cremation services required to request proof that a stillbirth was reported to the health sector or the civil registration system prior to final disposition of a stillborn baby?

Citations:

Comments:

¹³⁵ *Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management*, United Nations, 2019, at paragraph 315.

11. Foetal Death Certificates and Commemorative Stillbirth Certificates

Best Practice: In systems where stillbirths are registered through the civil registration system with a two-step process, the civil registrar issues a foetal death certificate to the parents after registration of the event. In civil registration systems with a one-step process, this document is issued only upon request, because the health facility issues the family a copy of the notice of stillbirth for burial purposes (see above). This foetal death certificate is an official government document.

Because a stillbirth is not a live birth, the registrar must not issue a certificate of live birth. Yet, many parents wish to have something other than a foetal death certificate to commemorate their stillborn baby. Recognition of the event and the loss can provide comfort to parents, and parents often wish to have some form of a “birth certificate”. To accommodate the wishes of parents, many countries and jurisdictions offer parents the opportunity to receive a commemorative document acknowledging the stillbirth. This document - often called “stillbirth certificate”, “certificate of stillbirth,” or “certificate of stillbirth registration” – usually contains the name of the stillborn baby, the date and place of the delivery, and the parents’ names. The document cannot be used to prove identity, or for any other legal purpose. Note: commemorative certificates are a good practice, but are not a required best practice.

Guidance: Answer the questions below regarding foetal death certificates and commemorative stillbirth certificates. Provide citations to the relevant laws or documents. In the comments section, note any observations regarding certificates.

-
- a. After registration of a stillbirth, is the registrar required to issue a foetal death certificate? May the registrar issue a foetal death certificate upon request by the parents?

Citations:

Comments:

- b. Does the civil registrar offer a commemorative stillbirth certificate or other commemorative document acknowledging the stillbirth? If yes, is the commemorative document provided free of charge?

Citations:

Comments:

12. Compilation of Vital Statistics on Stillbirths

Best Practice: If stillbirths are tracked through the civil registration system, statistics on stillbirths are usually compiled by the national statistics agency. In this case, the national civil registrar should be required to submit anonymized stillbirth registration information (including an MCCD, if available) to the national statistics agency on a regular and periodic basis, for example monthly, or quarterly. (See Chapter 7 on Vital Statistics for more detail).

If stillbirths are tracked through the health sector, the MoH might be responsible for compiling statistics on stillbirths, or the MoH might submit anonymized stillbirth information to the national statistics agency for compilation of stillbirth statistics.

Guidance: Answer the following questions regarding compilation of stillbirth statistics. Provide citations to the relevant laws or documents. In the comments section, analyze and describe whether the current practice aligns with best practice.

- a. State which agency is responsible for compiling statistics on stillbirths.


Citations:

Comments:

- b. Describe the process by which stillbirth information reaches the agency responsible for compiling stillbirth statistics, including:
 - i. Who is responsible for submitting the stillbirth information to the agency responsible for compiling stillbirth statistics?
 - ii. Is stillbirth information anonymized?
 - iii. Time periods for submission of information?

Citations:

Comments:



Annex 1: WHO Recommended Data Fields for Perinatal Cause of Death Certification

The WHO recommends using the International form of Medical Certification of Cause of Death (MCCD) for the medical certification of stillbirths. However, if, due to legal or other constraints, a separate medical cause of death form must be used for stillbirths and other perinatal deaths, the WHO recommends that the following data fields be included in the perinatal medical certification of cause of death form:¹³⁶

Causes of death for the classification that apply

- Main disease or condition in foetus or infant
- Other diseases or conditions in foetus or infant
- Main maternal disease or condition affecting foetus or infant
- Other maternal diseases or conditions affecting foetus or infant
- Other relevant circumstances
- Relevant dates and times
- Statement on whether the baby was born alive or dead (stillborn)
- Autopsy details
- Details about the mother
 - Date of birth
 - Number of previous pregnancies: live births/stillbirths/abortions
 - Date and outcome of last previous pregnancy: live birth/stillbirth/abortion
 - Present pregnancy
 - First day of last menstrual period (if unknown, then estimated duration of pregnancy in completed weeks)
 - Antenatal care- two or more visits: yes/no/not known
 - Delivery: normal spontaneous vertex/other (specify)
- Details about the Child
 - Birth weight in grams
 - Sex: boy/girl/indeterminate
 - Single birth/first twin/second twin/other multiple birth
 - If stillborn, when death occurred: before labour/during labour/not known
- Birth attendant: physician/trained midwife/other trained person (specify)/other (specify)

Note that, in accordance with UN recommendations, other statistical information should also be collected, such as usual place of residence of the mother, date of birth of the father, and date of marriage. (See Section 9 for a complete list of UN recommended higher priority and lower priority topics). However, such information may be collected in a separate Notice of Stillbirth Form. Alternatively, some countries embed the MCCD into the Notice of Stillbirth Form, or use a bifurcated form in which the MCCD is one portion of the form and the Notice of Birth is another portion of the form.

¹³⁶ World Health Organization, *International statistical classification of diseases and related health problem, 5th edition, 2016*, Volume 2, page 141.

Chapter

05

Certifying Cause of Death

Why it is important: Understanding the cause of death (COD) and manner of death for every death is critical to ensuring that usable mortality data are produced by the CRVS system. Countries should strive to have an accurate and detailed COD and manner of death attached to every registered death, regardless of whether the person dies in a health facility under the supervision of a physician, at home or in the community, under violent or accidental circumstances, or during an emergency or disaster.

Introduction

Understanding the manner and cause of death (“COD”) for all deaths is critical to ensuring that usable mortality data is available in a country. “Cause of death” is defined as “all those diseases, morbid conditions or injuries which either resulted in or contributed to death and the circumstances of the accident or violence which produced such injuries.”¹³⁷ “Manner of death” explains the circumstances in which a death arose. The International Classification of Diseases (ICD) classifies manner of death as disease, accident, intentional self-harm, assault, legal intervention, war, pending investigation, unknown, or “manner undetermined.” Statistics on COD facilitates informed policymaking. For example, information on unnatural deaths (e.g., homicides, poisonings, suicides, road traffic accidents and other externally caused deaths) can inform policies related to violence, drug use, road safety, and other public policy. Cause of death should only be determined by a medical professional; family and other non-medical personal should never be asked to provide cause of death information. Countries should strive to have an accurate and detailed medically certified cause and manner of death attached to every registered death. However, in some contexts it may not be possible to have a physician certify the cause of death, particularly in rural or remote areas where deaths occur at home. In circumstances where a medical certificate of cause of death is not available, registration should be permitted without a cause of death.

This chapter covers the following topics:

1. Compulsory Certification of Cause of Death
2. Form Used for Cause of Death and Manner of Death Reporting
3. Verbal Autopsy and Determinations of Cause of Death Without Medical Certification of Cause of Death
4. Transmission of COD Information to Civil Registration and Statistics Agencies
5. Amendment of Cause and Manner of Death Information
6. Access to COD Information
7. Training and Other Resources to Improve COD Data
8. Enforcement, Monitoring, and Evaluation

1. Compulsory Medical Certification of Cause of Death

Best Practice: Ideally, every death will have a cause of death (COD) medically certified by a trained physician. However, in circumstances where a medically certified cause of death (MCCD) is not available, the death should be registered without COD information. Cause of death should never be determined by a non-medical professional.

A certifier of COD is the person authorized by law to medically certify the underlying and contributory causes of death, and other facts related to the death, for submission to the local registrar or other appropriate authority. The certifier of COD should always be a trained medical professional. A non-medical profession should never certify or determine cause of death. The specific person responsible for certifying COD will vary depending on the circumstances of the death. The chart below states who should be responsible for certifying COD in the each of the given circumstances.¹³⁸

Circumstances of Death	Certifier of COD
Deaths due to natural causes that occur in a health facility (i.e., deaths not referred to MLDI system).	The head of the health facility or attending physician

¹³⁷ World Health Organization, *International Classification of Diseases, 2016, volume 2*; See also *Health Topics*, World Health Organization website, available at: https://www.who.int/bulletin/volumes/84/3/mortality_glossary/en/

¹³⁸ United Nations, *Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems*, New York, 2019, Para. 324, 329 - 345.

Deaths due to natural causes that occur at home or in the community while under medical care (i.e., deaths not referred to the MLDI system).	The physician that treated the deceased during the illness that lead to their death
Deaths referred to the Medicolegal Death Investigation (MLDI) system. (These are deaths due to unnatural causes, such as accident, self-harm, or violence; man-made or natural disasters; suspicious causes, or causes that cannot be determined by an attending physician)	The medical examiner or physician working with the MLDI authorities. (See Chapter 6 for more on MLDI).

Ideally, every death will have a medically certified cause of death. However, in many countries, the health care system may lack the capacity to reach remote areas of the country or medical professionals may lack specialized training on certifying COD.¹³⁹ In circumstances where it is not possible to have a medically certified COD, failure to ascertain or certify COD should not prevent death registration. In those circumstances, only evidence of the fact of death, not cause of death, should be required for registration.

Guidance: Answer the questions below. In the comments section, analyze whether the legal framework and current practices meet international best practices.

- a. Is a cause of death *required* in order to register a death?** (In other words, will a civil registrar refuse to register the death if a cause of death is not provided?)

Yes _____ No _____

Citation(s):

Comments:

- b. State who is responsible for medically certifying the cause of death in the following circumstances** (include any time requirements for certifying cause of death)

- i. Deaths due to natural causes that occur in a health facility (not referred to MLDI):**

Citation(s):

Comments:

- ii. Deaths due to natural causes that occur in the home/community while under medical care (not referred to MLDI):**

Citation(s):

Comments:

¹³⁹ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 321.

- iii. Deaths due to natural causes that occur in the home/community without medical supervision (and not referred to MLDI):

Citation(s):

Comments:

- iv. **Deaths referred to the Medicolegal Death Investigation (MLDI) system.** (Depending on a country's MLDI legal framework, these may include deaths due to: unnatural causes, such as accident, self-harm, or violence; man-made or natural disasters; suspicious causes, or causes that cannot be determined by an attending physician)

Citation(s):

Comments:

- c. **Describe any circumstances under which it is unclear who, if anyone, is responsible for certifying COD.** (Specifically address who certifies COD for: 1) deaths that occur in the community while not under medical care, 2) deceased who are brought in dead to a health facility.)

Citation(s):

Comments:

- d. **State whether any non-medical profession is permitted or required to determine and provide information on cause of death** (e.g., this may include a family member, a non-medically trained coroner, a police officer, or other person who determines and provides COD information during death registration)

Citation(s):

Comments:

2. Form Used for Cause of Death and Manner of Death Reporting

Best Practice: The WHO International Standard Form of the Medical Certificate of Cause of Death (MCCD) is the recommended form for recording cause and manner of death information for certification. This MCCD should be completed by a physician and used for certifying cause and manner of death for all deaths, regardless of the circumstances of death (e.g., natural or unnatural death, or occurring within or outside a health facility). The WHO MCCD is attached as Annex A.

The WHO MCCD contains data fields for reporting the immediate, antecedent and underlying causes of death, as well as manner of death. Both sections - cause of death and manner of death - should be completed by a physician certifier. Underlying cause of death is defined as "the disease or injury which initiated the train of morbid events leading directly to death, or the circumstances of the accident or

violence which produced the fatal injury.”¹⁴⁰ “Manner of death” (MOD) explains the circumstances in which a death arose, and data fields include: disease, accident, intentional self-harm, assault, legal intervention, war, pending investigation, unknown, or manner undetermined. Completing the manner of death section is important because it helps ICD Coders to verify an accurate cause of death. In addition, having these tick boxes allows for statistical studies on injuries and other deaths, which allow for the development of public health policy interventions.¹⁴¹

A medicolegal death is a death that is referred to the police, coroner, medical examiner and/or forensic pathologist for investigation and determination of cause and manner of death. In most countries, unnatural deaths (such as assault, accident, and suicide), suspicious deaths, and sudden and unexplained deaths are referred to the medicolegal death investigation (MLDI) system. In some countries, when a death is referred to the MLDI system, the physician certifier is limited to only reporting cause of death and the police or prosecutor are responsible for reporting manner of death. This is not good practice for two reasons. First, the MOD determined by the physician and certified on the MCCD serves purposes beyond those of just law enforcement; the MOD assists in clarifying the circumstances of death for public health and public safety purposes. Second, the MOD determined by the physician has a different standard from MOD determined in legal proceedings and the two should not be confused. For example, an *“assault” as a manner of death on the MCCD is a statistical category that, for purposes of the forensic examination, is defined as a death that occurred due to the infliction of physical harm by another person. It is not synonymous with “murder,” which is a legal term that involves intent. It is ultimately up to the legal system to determine how a death is criminally classified under law.*¹⁴² While an MCCD (and autopsy findings) may be submitted as evidence in a legal proceeding, the MOD on the MCCD is a medical opinion, not a legally binding opinion.

Guidance: Describe the form(s) to be used for medical certification of cause of death for each of the circumstances below. In the comments section, discuss if non-standard MCCD forms are used for any circumstances and who the form should be revised to align with the WHO MCCD.

- a. **Describe the form used for certifying cause and manner of death for the circumstances below and discuss whether the form aligns with the WHO MCCD:**
 - i. Natural deaths occurring in health facilities:
 - ii. Natural deaths occurring in the home/community:
 - iii. Deaths investigated by the medicolegal death investigation (MLDI) system:
 - iv. Other:

Citation(s):

Comments:

- b. **State whether a physician certifier is required to complete the manner of death in the MCCD as well as the cause of death.** Describe any circumstances in which the physician does not complete the MOD section.

Citation(s):

¹⁴⁰ <http://www.who.int/topics/mortality/en/>

¹⁴¹ United States Standard Certificate of Death, Instruction for Item Number 37 Manner of Death, available at: <https://www.cdc.gov/nchs/data/dvs/death11-03final-acc.pdf>.

¹⁴² NOLO website, Legal Articles, *What is Murder? Is Murder Different from Homicide?*, available at: <https://www.nolo.com/legal-encyclopedia/homicide-murder-manslaughter-32637.html>

Comments:

3. Verbal Autopsy and Determinations of Cause of Death Without Medical Certification of Cause of Death

Best Practice: A proper medical certification of cause of death based on directly observed clinical or autopsy data is the most reliable source of cause of death. However, lack of access to health facilities in many countries results in many individuals dying without medical care or supervision, which makes medical certification of cause of death for all deaths difficult. For deaths occurring without medical care or supervision, it may be appropriate to use verbal autopsy (VA) — a structured interview of the decedent’s family members or other caregivers who can provide enough information to determine the probable COD, either using a computer algorithm (automated VA) or by a physician who reviews the interview results and assigns a COD (physician-certified VA).¹⁴³

The results of VA are generally less accurate than a medically certified cause of death at the individual level. However, at the population-level, VA can help ascertain mortality trends, which is important for public health decision-making. Therefore, VA is generally used for statistical purposes only and is not recorded in the death register. However, a few countries have begun to use physician-certified VA at the individual level for legal purposes, making it the equivalent of MCCD.¹⁴⁴ This is still a relatively new practice and, if followed, the statistics agency should separate medically certified causes of death from those determined by VA.

Guidance: Describe how COD is determined if physicians are not available to medically certify a COD. Indicate whether, and in what circumstances, the law permits verbal autopsy (VA), whether physician-certified VA, automated VA, or another form. If VA is explicitly mentioned, indicate as such. Indicate whether a COD derived from physician-certified VA would satisfy any requirement that COD be “medically certified” for legal or statistical purposes. For automated VA, indicate whether the derived COD is used for statistical purposes only, or whether it is recorded in the death register. In the comments section, describe whether the law aligns with best practice and note any recommendations for regulatory reform.

-
- a. **How is COD determined if no physician is available to medically certify a COD?** Is VA explicitly permitted or required? If so, is it permitted for statistical purposes only or also for legal purposes?

Citation(s):

Comments:

4. Transmission of COD Information to Civil Registration and Statistics Agencies

Best Practice: The MCCD should be transmitted to the civil registrar by the health facility, medical practitioner, or the coroner, medical examiner or physician working with the MLDI system. It is important that the MCCD be sent to registrar so that cause of death can be recorded for legal purposes. Generally, it is the responsibility of the civil registrar to ensure that the MCCD, and any other information needed for

¹⁴³ United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014. Paras. 499-501.

¹⁴⁴ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 349-351.

statistical purposes, is submitted to the statistical authorities for the production of vital statistics.¹⁴⁵ However, some countries use a bifurcated form, containing a section for legal information (such as name of deceased, date and place of death) and a section for statistical information (including cause of death). With this type of form, the legal information is submitted to the registrar and the statistical information is submitted directly to the statistics agency.¹⁴⁶ If this practice is followed, the civil registrar will not have cause of death information and, therefore, the family of the deceased may be able to obtain proof of cause of death if needed for legal purposes.

As stated above, determinations of COD by verbal autopsy are not considered to be accurate at the individual level, however the results provide useful population level data. Due to this, experts recommend that COD information from VA should be delivered or transmitted directly to the statistics agency (not the registrar), and used for statistical purposes only. If physician-assisted VA is used for legal purposes, this information should be transmitted to the registrar, but with a notation that COD was generated from VA.¹⁴⁷

The direct submission of the MCCD from the certifier to the civil registrar (or from the certifier to the civil registrar and statistics agency, in the case of a bifurcated form) achieves two simultaneous benefits. First, the necessary information, including COD, is efficiently transmitted to the civil registrar and statistics agency without placing the burden of submitting the information on a mourning family. Second, certifiers of COD are less likely to modify sensitive COD information if fewer people have access and knowledge to that potentially sensitive information. For example, a physician may not feel comfortable listing HIV as the underlying cause of death on an MCCD that will be handed to the family.¹⁴⁸

The legal framework should include clear timeframes for transmission of the MCCD to the registrar and/or statistics agency. Usually, the MCCD should be submitted to the registrar within the same timeframe that the death must be reported to the registrar. MCCDs may be sent to the statistics agency on a regular and periodic basis.

Guidance: For each circumstance below, describe whether and how the COD information is transmitted to the civil registrar and/or statistics agencies. Pay particular attention to whether any intermediaries could diminish the quality or lower the quantity of the information reaching the government agencies. In the comments section, describe whether the law aligns with best practice and note any recommendations for regulatory reform.

-
- a. **For a death that occurred in a health facility (and not referred to MLDI), how is the MCCD transmitted to the civil registrar and/or statistics agency?** Note any specified timeframes.

Citation(s):

Comments:

- b. **For a death that occurred at home or in the community under medical supervision (and not referred to MLDI), how is the MCCD from a physician transmitted to the civil registrar and/or statistics agency?** Note and specified timeframes.

Citation(s):

¹⁴⁵ United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014. Para. 498.

¹⁴⁶ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 327.

¹⁴⁷ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 351.

¹⁴⁸ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 328.

Comments:

- c. **For a death referred to the MLDI system, how is the MCCD transmitted to the civil registrar and/or statistics agency?** Note any specified timeframes.

Citation(s):

Comments:

- d. **For COD determined from Verbal Autopsy, to whom and how is the COD information transmitted?** Note and specified timeframes.

Citation(s):

Comments:

5. Amendment of Cause and Manner of Death information

Best Practice: The law should permit and have a process to amend cause and manner of death information with the Registrar's office after an original MCCD has been submitted.¹⁴⁹

Amendment is often required for deaths referred to the MLDI system, as the results of an autopsy can take weeks or months, but the timeframe for reporting a death and submitting an MCCD is often days. When an autopsy or investigation is not yet complete, the MCCD may be submitted to the Registrar with a "pending" cause of death, manner of death, or both. (Recall that "Pending Investigation" is a specified "manner of death" in the WHO MCCD). Amendments may also be needed to change a cause or manner of death if further investigation reveals new facts. In addition, in some instances, there may be a need to update name and demographic information; for instance, in the case of a previously unidentified or misidentified person.

Guidance: Describe the process for amending cause and manner death information, if any. Describe also whether other information – such as name and demographic information – may be amended. In the comments section, analyze whether the legal framework aligns with best practice.

- a. **Is there a process to amend an MCCD after submission of an original MCCD to the civil registration authority?** If yes,
- i. Describe the process.
 - ii. Can COD and MOD be amended?
 - iii. Can name and demographic information be amended?

Citation(s):

¹⁴⁹ See *Medical Examiners and Coroners' Handbook on Death Registration and Foetal Death Reporting*, page 6 (requiring medical examiner/coroner to deliver a supplemental report of cause of death to the State vital statistics office when autopsy findings or further investigation reveals the cause of death to be different from what was originally reported.)

Comment:

6. Access to COD Information

Best Practice: COD is sensitive and confidential medical information. This information is critical for statistical and legal purposes, but it must be carefully secured. Information on cause of death can be important to close family members of the decedent for insurance and other matters. UN guidance provides that close family members should have the right to request COD information.¹⁵⁰

The death certificate issued by the Civil Registrar is the official legal document providing evidence of death. If an extended list of people can request and receive a death certificate, countries should carefully consider whether COD should be included to protect the privacy of the decedent and his/her family. Only interested parties with a legitimate interest or their legal representatives should be able to request certificates that contain COD information.¹⁵¹

Due to the confidential nature of this information, country practices vary with regard to inclusion of COD on the death certificate. Some countries do not include COD information on death certificates issued by the civil registrar, while others do. Some countries have a short-form and a long-form death certificate, the former without COD information and latter with it.¹⁵² The long-form death certificate is only issued to close relatives or persons with a legitimate interest in the cause of death.

Guidance: For each of the following documents, indicate who can request access to the COD information. Indicate any other security measures that ensure the confidentiality and security of the information. For the death certificate, indicate whether the COD information is always listed in certified copies (including short and long form). In the comments section, describe whether the law aligns with best practice and note any recommendations for regulatory reform.

a. **Who can request a death certificate?** (State whether COD is included in the certificate).

Citation(s):

Comments:

b. **Who can request an MCCD from a health facility or physician?**

Citation(s):

Comments:

c. **Who can request an MCCD from medicolegal investigation?**

¹⁵⁰ United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014, paragraph 498.

¹⁵¹ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 363.

¹⁵² United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 360.

Citation(s):

Comments:

d. Who can request COD from Verbal autopsy?

Citation(s):

Comments:

7. Training and Other Resources to Improve COD Data

Best Practice: Correctly completed MCCD and well-trained coders determining the underlying cause of death form the basis for good quality mortality statistics. Practicing medical professionals must be trained and retrained in medical certification of cause of death. To improve the quality of information in medical certification of cause of death, physicians must be trained in correct completion of the international MCCD standard form. Medical certification of cause of death should be included in mandatory curricula for all medical students and in all post-graduate medical education and professional in-service trainings.¹⁵³ Well-trained coders applying International Classification of Diseases (ICD) coding rules and principles are essential to the production of high-quality mortality data. Coders require specialized training and continuous supervision. Therefore, it is recommended that a dedicated ICD-coder cadre be created, funded, and adequately trained and re-trained.¹⁵⁴

Guidance: Describe any law or directive related to training for medical students, physicians, and other medical professionals in medical certification of cause of death. Indicate whether training in medical certification of cause of death is optional or required for licensure or re-licensure. Any requirement for the medical profession related to this training is likely to be contained in the rules of the country's medical association or other body that accredits and licenses physicians. Any requirement related to training for medical students is likely to be contained in the rules related to the curricula of medical schools. Describe any law or directive creating a job classification of ICD mortality coders. Include details of the entity that oversees the cadre, whether the job is full-time, and any other relevant details. In the comments section, describe whether the law aligns with best practice and note any recommendations for regulatory reform.

a. Is training in COD certification required during medical school?

Citation(s):

Comment:

b. Is training in COD certification required (or available and optional) for licensed physicians?

Citation(s):

Comment:

¹⁵³ World Health Organization, Strengthening Civil Registration and Vital Statistics for Births, Deaths, and Causes of Death, Resource Kit, 2012, Module 4.

¹⁵⁴ World Health Organization, Strengthening Civil Registration and Vital Statistics for Births, Deaths, and Causes of Death, Resource Kit, 2012, Modules 4, 5.

c. Does training exist for a dedicated cadre of ICD mortality coders?

Citation(s):

Comments:

d. Other resources or training available

Citation(s):

Comments:

8. Enforcement, Monitoring, and Evaluation

Best Practice: Completeness of mortality data can only be improved if legal obligations to determine and medically certify COD following best practices are monitored and enforced.¹⁵⁵

Guidance: Describe any documented system of fines, incentives, or oversight applied to those required to determine or medically certify COD. Include a description of the monitoring system and the amount of fines/penalties, and parties subject to fines/penalties. In the comments section, describe whether the law aligns with best practice and note any recommendations for regulatory reform.

a. Describe any monitoring and evaluation of certifiers of cause of death.

Citation(s):

Comments:

b. Describe any fines or other penalties for failure to comply with legal obligations to certify cause of death.

Citation(s):

Comments:

ANNEX – WHO MCCD

¹⁵⁵ World Health Organization, Strengthening Civil Registration and Vital Statistics for Births, Deaths, and Causes of Death, Resource Kit, 2012, pp. 55-57.

Administrative Data (can be further specified by country)																						
Sex	<input type="checkbox"/> Female				<input type="checkbox"/> Male				<input type="checkbox"/> Unknown													
Date of birth	D	D	M	M	Y	Y	Y	Y	Date of death	D	D	M	M	Y	Y	Y	Y					
Frame A: Medical data: Part 1 and 2																						
1 Report disease or condition directly leading to death on line a Report chain of events in due to order (if applicable) State the underlying cause on the lowest used line			Cause of death	Time interval from onset to death																		
		a																				
		b	Due to:																			
		c	Due to:																			
		d	Due to:																			
2 Other significant conditions contributing to death (time intervals can be included in brackets after the condition)																						
Frame B: Other medical data																						
Was surgery performed within the last 4 weeks?								<input type="checkbox"/> Yes		<input type="checkbox"/> No		<input type="checkbox"/> Unknown										
If yes please specify date of surgery								D	D	M	M	Y	Y	Y	Y							
If yes please specify reason for surgery (disease or condition)																						
Was an autopsy requested?								<input type="checkbox"/> Yes		<input type="checkbox"/> No		<input type="checkbox"/> Unknown										
If yes were the findings used in the certification?								<input type="checkbox"/> Yes		<input type="checkbox"/> No		<input type="checkbox"/> Unknown										
Manner of death:																						
<input type="checkbox"/> Disease			<input type="checkbox"/> Assault				<input type="checkbox"/> Could not be determined															
<input type="checkbox"/> Accident			<input type="checkbox"/> Legal intervention				<input type="checkbox"/> Pending investigation															
<input type="checkbox"/> Intentional self harm			<input type="checkbox"/> War				<input type="checkbox"/> Unknown															
If external cause or poisoning:								Date of injury		D	D	M	M	Y	Y	Y	Y					
Please describe how external cause occurred (If poisoning please specify poisoning agent)																						
Place of occurrence of the external cause:																						
<input type="checkbox"/> At home			<input type="checkbox"/> Residential institution			<input type="checkbox"/> School, other institution, public administrative area				<input type="checkbox"/> Sports and athletics area												
<input type="checkbox"/> Street and highway			<input type="checkbox"/> Trade and service area			<input type="checkbox"/> Industrial and construction area				<input type="checkbox"/> Farm												
<input type="checkbox"/> Other place (please specify):								<input type="checkbox"/> Unknown														
Fetal or infant Death																						
Multiple pregnancy								<input type="checkbox"/> Yes		<input type="checkbox"/> No		<input type="checkbox"/> Unknown										
Stillborn?								<input type="checkbox"/> Yes		<input type="checkbox"/> No		<input type="checkbox"/> Unknown										
If death within 24h specify number of hours																Birth weight (in grams)						

survived						
Number of completed weeks of pregnancy			Age of mother (years)			
If death was perinatal, please state conditions of mother that affected the fetus and newborn						
For women, was the deceased pregnant?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown			
<input type="checkbox"/> At time of death	<input type="checkbox"/> Within 42 days before the death					
<input type="checkbox"/> Between 43 days up to 1 year before death	<input type="checkbox"/> Unknown					
Did the pregnancy contribute to the death?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown			

Chapter

06

Medicolegal Death Investigation

Authors: Lynn Sferrazza, Global Health Advocacy Incubator; Olga Joos, CDC Foundation

Why it is important: The medicolegal death investigation (MLDI) system is responsible for conducting death investigations and certifying the cause and manner of deaths that are unnatural, violent or suspicious, sudden or unexpected, unusual, or otherwise represent a potential threat to public health and safety. Depending on the country, up to 20% of deaths are referred to the MLDI system. In Australia and the U.S. 13%¹ and 20%² of deaths, respectively, are referred to MLDI; and in Canada, depending on the jurisdiction, 7%–45% of deaths are investigated by the MLDI system annually. Most of these deaths are preventable. Quality information from the MLDI system provides valuable input for public health and other authorities to develop effective interventions, including interventions to prevent injury, suicide, violence, and substance abuse. In addition, a well-functioning MLDI system founded on a strong legal framework can strengthen the civil registration and vital statistics (CRVS) system. A connection between the MLDI system and CRVS system ensures that these deaths are registered and that the cause and manner of death are captured by the national statistics agency for use in vital statistics.

Acknowledgments: The authors would like to thank their partners in the Data for Health Initiative, including the CDC Foundation, the CDC, the WHO, Johns Hopkins University, and Vital Strategies, as well as the UN Statistics Division, for their contributions and input on this chapter.

Medicolegal death investigation (MLDI) Module

Why is it important?

The medicolegal death investigation (MLDI) system is responsible for conducting death investigations and certifying the cause and manner of deaths that are unnatural, violent or suspicious, sudden or unexpected, unusual, or otherwise represent a potential threat to public health and safety. Depending on the country, up to 20% of deaths are referred to the MLDI system. In Australia and the U.S. 13%¹⁵⁶ and 20%¹⁵⁷ of deaths, respectively, are referred to MLDI; and in Canada, depending on the jurisdiction, 7%–45% of deaths are investigated by the MLDI system annually. Most of these deaths are preventable. Quality information from the MLDI system provides valuable input for public health and other authorities to develop effective interventions, including interventions to prevent injury, suicide, violence, and substance abuse. In addition, a well-functioning MLDI system founded on a strong legal framework can strengthen the civil registration and vital statistics (CRVS) system. A connection between the MLDI system and CRVS system ensures that these deaths are registered and that the cause and manner of death are captured by the national statistics agency for use in vital statistics.

What is a medicolegal death investigation?

A medicolegal death investigation is a process whereby a coroner, medical examiner, or forensic pathologist working with the police, seeks to understand how and why a person died. The coroner, medical examiner, or pathologist must answer five questions when investigating a death:

- Who died - what was the person's name, if known?
- When did the death occur?
- Where did the death occur?
- What was the cause of death: What physical disease, physical condition, or physical injury (or combination of) caused death?
- What was the manner of death: Natural, accident, suicide, homicide, or undetermined?¹⁵⁸

The purpose of a medicolegal death investigation is to present medical findings, not to determine civil or criminal liability. These findings may be submitted as evidence in criminal or civil proceedings; however, they are medical findings and are not legally binding. Throughout this module, when we refer to “medicolegal death investigation” we are referring specifically to this non-legally binding fact-finding process, not the criminal investigation process. The purpose of a criminal investigation is to determine if a crime has been committed, obtain evidence to identify the person responsible for the crime, and to provide the best possible evidence to the prosecutor. A judge or jury determines criminal or civil liability.

MLDI Systems and Stakeholders

MLDI systems vary greatly across the world. In general, MLDI systems can be categorized into three types: coroner systems, medical examiner systems, and law enforcement-led systems. The defining features of these types of systems are discussed in detail in Section 2.

Regardless of the type of system, every MLDI system has multiple stakeholders. At a minimum, stakeholders include: law enforcement, the office of the coroner or medical examiner (where relevant), the health sector, the public health agency, the civil registration agency, and the national statistics agency. In some systems, the judiciary and public prosecutors may also play an important role. Strong cooperation is

¹⁵⁶ Australian Bureau of Statistics, *Causes of Death, Australia, 2015, Technical Note 1*, available at: <https://www.abs.gov.au/AUSSTATS/abs@.nsf/Previousproducts/3303.0Technical%20Note12015>

¹⁵⁷ Hanzlick, R., Overview of Medicolegal Death Investigation in the United States, National Academy of Sciences, 2003, available at: <https://www.ncbi.nlm.nih.gov/books/NBK221926/>

¹⁵⁸ See, e.g., Ministry of the Solicitor General, Ontario, Canada, Death Investigations website page, at: https://www.mcscs.jus.gov.on.ca/english/DeathInvestigations/CommonQuestionsAboutCoronersInvestigations/OCC_common_questions.html

needed among all stakeholder entities to ensure efficient and effective medicolegal death investigation and compilation of quality MLDI statistics. The roles of these stakeholders and coordinating mechanisms are discussed in Section 4.

Focus of this module

A strong legal framework for the MLDI system, among other things, sets the jurisdictional scope for the MLDI authority; defines the terms and conditions under which the authority operates; establishes the powers, duties and responsibilities of the MLDI authority and other system stakeholders; creates protections to ensure independence in the conduct of MLDI work; authorizes practices and procedures; provides a connection to the CRVS system; and ensures sufficient resources to perform the required work.¹⁵⁹

The subject of MLDI is complex and a strong MLDI legal framework may address many more topics than are included in this module. We have selected the included topics in order to aid the reviewer in determining: 1) whether the MLDI legal framework aids or hinders timely, complete and accurate MLDI information, and in particular cause and manner of death information, and 2) whether information from the MLDI system is shared with the CRVS system in a manner that aids or hinders timely, complete, and accurate statistics on deaths under the jurisdiction of the MLDI authority.

How to use this Module

This chapter covers the following topics:

1. Definitions
2. Structure of the MLDI System
3. Organizational Situs of the Office of the Medical Examiner/Coroner within the MLDI system
4. Stakeholder Cooperation
5. Qualifications of head of MLDI authority and head of subnational offices
6. Power to issue SOPs, practice guidelines
7. Staffing
8. Accessibility of forensic services throughout the country and transportation of human remains
9. Scope of Jurisdiction - Cases that must be referred to MLDI for investigation
10. Cases requiring autopsy
11. Autopsy/External Examination Report and Case File
12. Powers of medical examiner/coroner to investigate
13. Medical Certificate of Cause of Death (MCCD)
14. Connection to the CRVS system: Death Registration and Statistics
15. Time Limits on Investigation
16. Mass Fatality Management
17. Resources
18. Training
19. Supervision and Enforcement

The principles presented in this module hold for countrywide MDLI systems, as well as for systems established at a sub-national level in decentralized MLDI systems. We use the term “country” as shorthand for “country or jurisdiction”. If you are completing this toolkit for a specific jurisdiction (province, city, district, etc.), consider the term “country” to mean “jurisdiction” unless otherwise indicated.

Throughout this module, we use the term “*medicolegal death investigation*” or *MLDI* to refer to the process of seeking to understand how and why a person died. Specifically, the process of determining: Who died? When did the death occur? Where did the death occur? What was the cause of death? And what was the manner of death?

We use the term “*MLDI authority*” to mean the entity that bears the ultimate responsibility for finding of

¹⁵⁹ Weedn, V.W., Model Medical Examiner Legislation, Academic Forensic Pathology 2015 5(4): 614-627

facts regarding these Who, Where, When and What questions. Depending on the system established in your country the “MLDI authority” may be, for example, the Office of the Chief Coroner, the Office of the Chief Medical Examiner, the National Police Department, the Office of the Chief Prosecutor, or a Medicolegal Division within the police or prosecutor’s office.

The term “*head of MLDI authority*” means the person who is at the top of the organization chart of the MLDI authority. This could be a Chief Coroner, a Chief Medical Examiner, a Chief of Police, the Chief Prosecutor (which, depending on the country, may be known as the Prosecutor General, the Attorney General, the Solicitor General, or some other title), or the Chief of Medicolegal Division within the police or prosecutor’s office.

Suggested Reading and Resource: Annex B contains a Resources page with suggested reading and links for a variety of MLDI topics including: general information on MLDI systems; codes of ethics and independence of MLDI professionals; inquests; death in custody; and peer review process. There are also links to example laws on coroner and medical examiner systems.

1. Definitions

Good Practice: Clear definitions in the laws governing MLDI help ensure that all stakeholders understand key terminology in the same way. Any technical terminology, or not commonly understood terms, used in your country's laws should be clearly defined.

Below are some terms that are used throughout this toolkit module, which may be misunderstood if not clearly defined. Please read the terms and definitions below carefully. It is important for reviewers to understand the terms below before proceeding with the analysis in this module.

Autopsy is a highly specialized surgical procedure that consists of a thorough examination of a corpse to determine the cause and manner of death and to evaluate any disease or injury that may be present. It should be performed by a specialized medical doctor called a pathologist.¹⁶⁰ [Note: the term “autopsy” should not be confused with “verbal autopsy,” which is defined below.]

Autopsy report is a report completed by the medical examiner, or other physician trained in this assessment, to present results on examination findings, evidence of injury and therapy, and the cause and manner of death.¹⁶¹

Cause of death is all those diseases, morbid conditions or injuries which either resulted in or contributed to death and the circumstances of the accident or violence which produced such injuries.¹⁶²

Manner of death explains the circumstances in which a death arose. The International Classification of Diseases (ICD) classifies manner of death as disease, accident, intentional self-harm, assault, legal intervention, war, pending investigation, unknown, or “manner undetermined.”

Medical certificate of cause of death is the WHO International Standard Form of the Medical Certificate of Cause of Death (MCCD). This is the recommended form for recording cause of death information for certification. The form contains data fields for the immediate, antecedent and underlying causes of death, and manner of death for completion by a physician.

Post-mortem: an examination of a body that takes place after death to determine the cause and manner of death. The term post-mortem is sometimes used interchangeably with autopsy. In this Chapter, we define post-mortem as a broader term, encompassing any examination of the body post-death, which could be an external examination only or include an internal examination (autopsy).

Underlying cause of death is the disease or injury which initiated the train of morbid events leading directly to death, or the circumstances of the accident or violence which produced the fatal injury.¹⁶³

Guidance: State whether each term below (or similar term) is used in your MLDI legal framework and whether it is defined. If defined, state the definition contained in the legal framework. Provide the legal citation where the term is found. If other key terms are used in your MLDI legal framework, state the definition and provide the citation. In the comment sections, provide your analysis on whether a definition is needed, or whether the definition is clear and understood in the context of the law. State how the definition could be improved if necessary.

a. *Autopsy (or “post-mortem” or similar term):*

Used in law? _____ Yes _____ No Defined? _____ Yes _____ No

Definition:

¹⁶⁰ Los Angeles County Medical Examiner-Coroner website, at FAQs/Glossary of Terms, available at: <https://mec.lacounty.gov/>

¹⁶¹ Dolinak D., Matshes E.W., & Lew, E.O., Forensic Pathology: Principles and practice, Elsevier Academic Press (2005).

¹⁶² World Health Organization, *International Classification of Diseases, 2016, volume 2*; See also *Health Topics*, World Health Organization website, available at: https://www.who.int/bulletin/volumes/84/3/mortality_glossary/en/

¹⁶³ WHO website, available at: https://www.who.int/bulletin/volumes/84/3/mortality_glossary/en/

Citation:

Comment:

b. Autopsy report (or "post-mortem report" or similar term):

Used in law? _____ Yes _____ No Defined? _____ Yes _____ No

Definition:

Citation:

Comment:

c. Cause of death:

Used in law? _____ Yes _____ No Defined? _____ Yes _____ No

Definition:

Citation:

Comment:

d. Manner of death:

Used in law? _____ Yes _____ No Defined? _____ Yes _____ No

Definition:

Citation:

Comment:

e. Medical certification of cause of death:

Used in law? _____ Yes _____ No Defined? _____ Yes _____ No

Definition:

Citation:

Comment:

f. Underlying cause of death:

Used in law? _____ Yes _____ No Defined? _____ Yes _____ No

Definition:

Citation:

Comment:

g. Other key terms (provide as many as necessary):

Definition:

Citations:

Comment:

2. Structure of the MLDI System

Good practices: Medical legal death investigation systems vary greatly across the world. In general, MLDI systems can be categorized into three types of systems: coroner systems, medical examiner systems, and law enforcement-led systems.¹⁶⁴ In addition, some jurisdictions have a hybrid coroner/medical examiner system.

Coroner system: In a coroner system, the Coroner is responsible for ensuring that the body is identified and that the cause and circumstances of death are determined. In other words, the coroner is responsible for answering: Who died? When did the death occur? Where did the death occur? What was the cause of death? And what was the manner of death? However, coroners themselves generally do not conduct the medical examinations necessary to answer these questions. A coroner's level of education varies by jurisdiction. In many countries, coroners are legal professionals, such as a judge, magistrate, or prosecutor; in some countries, coroners are certified physicians; and in some countries, there are no required qualifications for coroners, which is not good practice (see Section 5 on Qualifications of Coroners and Medical Examiners). Therefore, coroners who are not physicians work with medical and forensic professionals to conduct an investigation.

Some coroner systems combine medical and scientific investigation with a judicial enquiry in open court called an inquest. An inquest is a special court proceeding in which the coroner acts as judge, and sometimes involves a jury. In an inquest, the coroner summons witnesses to testify in order to determine who the dead person was and the circumstances of the death.¹⁶⁵ Historically, coroners used an inquest to determine who might be criminally liable, much like an indictment. However, a present-day inquest is not a criminal proceeding and is not intended as a means to determine criminal liability, but rather, is a means of fact-finding that is non-binding.¹⁶⁶

The use and function of the inquest has evolved over the last century with the rise of modern medicine and medical forensic investigative techniques. In U.S. coroner systems, open court inquests are now rarely held.¹⁶⁷ Instead, the coroner determines the who, when, where and what questions solely through medical and scientific investigation, with the assistance of trained medical and forensic professionals (see Section 7 below – Staffing and Qualifications).

In many Commonwealth countries, inquests are still regularly used. However, the modern inquest usually does not have a jury and is not used to determine criminal responsibility, and often serves a public interest function. For example, in Canada, Australia, and New Zealand, coroners regularly use inquest verdicts as a means of communicating safety hazards to the public. Coroners in Australia have issued reports regarding fire risk, unfenced swimming pools, drug addiction in prison, carbon monoxide poisoning, and gun ownership.¹⁶⁸ In England, inquests have been used in cases of public importance. For example, a decade after the deaths of Princess Diana and Dodi Al-Fayed, an inquest was held and concluded that the deaths had resulted from gross negligence by the deceased's chauffeur (who also died in the accident) and from

¹⁶⁴ James JVP Kalougivaki, Medico-Legal Death Investigation Systems in the Pacific and Creating a Stronger Pacific Disaster Victim Identification Network, *Journal of Forensic Research*, 2015, 6:1, p2.

¹⁶⁵ Dr. Judy Melinek, *A Forensic Primer for Journalists*, Forensic Pathology Forum, January 9, 2015, available at: <http://pathologyexpert.blogspot.com/2015/01/a-forensic-primer-for-journalists.html?m=1>

¹⁶⁶ Manchester City Council, *The Inquest System, What is the purpose of an Inquest?*, available at: https://secure.manchester.gov.uk/info/626/coroners/5533/the_inquest_system/4.

¹⁶⁷ "Why Modern Medical Examiners Don't Hold Inquests", website of Spokane County, Washington, available at: <https://www.spokanecounty.org/834/Why-Modern-Medical-Examiners-Dont-Hold-I>

¹⁶⁸ Paul, MacMahon, *The Inquest and the Virtues of Soft Adjudication*, 33 *Yale Law & Policy Rev.* 275 (2015), p. 295, available at: <https://ylpr.yale.edu/inquest-and-virtues-soft-adjudication>.

negligence on the part of those driving vehicles pursuing the car. This helped to quell conspiracy theories about the deaths.¹⁶⁹ The inquest into the “7/7 bombings” in London in 2007, in which 52 people died, concluded with a series of recommendations for emergency planners, the security services, and the London transport authorities for how to deal with future acts of terrorism.¹⁷⁰ The inquest has also been particularly important in post-Troubles Northern Ireland, where the coroner has played a significant role in examining cold cases from the 1970s, 1980s, and 1990s.¹⁷¹

Do not confuse the term “inquest” with the term “investigation” or “inquiry.” In laws establishing coroner systems, the term “investigation” or “inquiry” is the broader term and refers to the process of reviewing a case; an investigation or inquiry may include an inquest, or an inquest may be waived.

Medical examiner system: In a medical examiner system, the Medical Examiner, is responsible for ensuring that the body is identified and that the cause and circumstances (the who, when, where and what questions) are determined. The Medical Examiner is a medical professional trained, at a minimum, in pathology and ideally in forensic pathology (see section 5 below – Qualifications of Head of MLDI System). The Medical Examiner leads the medical and scientific investigation and, unlike coroners, usually does not have the power to hold an inquest. The Medical Examiner may work with various medical and forensic professionals to conduct a thorough clinical examination for the determination of cause and manner of death and to identify an unidentified body (see Section 7 below – Staffing and Qualifications).

Coroner/Medical Examiner hybrid system: The structures of hybrid systems vary by country. However, in general, a hybrid system is one where a coroner refers cases to an established medical examiner system for autopsy or external examination. Hybrid systems have developed in countries with a long-established coroner system that aim to improve quality of cause and manner of death information by working with trained medical examiners. For example, reforms to the coroner system in the U.K. were introduced through the Coroner and Justice Act 2009. The Act establishes an Office of the Chief Coroner for England and Wales and also provides for the appointment of a National Medical Examiner. The Act authorizes regulations “requiring a senior coroner to refer a case to a medical examiner”.¹⁷² Several jurisdictions in the United States have hybrid systems as well. Hybrid systems differ from coroner systems that refer cases to outside medical professionals for autopsy on an ad hoc basis in that, in a hybrid system, cases are referred to trained medical examiners that are part of an established coroner system.

Law enforcement-led system: In this type of system, the law enforcement initiate and lead the medicolegal death investigation, as well as the criminal investigation. It is important not to confuse the criminal investigation and the medicolegal death investigation. As discussed above, the purpose of the medicolegal death investigation is to answer the questions: Who died? When did the death occur? Where did the death occur? What was the cause of death? And what was the manner of death? The results of the medicolegal death investigation are findings, they do not establish criminal or civil liability. The findings from a medicolegal death investigation may be presented as evidence in a criminal or civil case. The purpose of a criminal investigation is to determine if a crime has been committed, obtain evidence to identify the person responsible for the crime, and to provide the best possible evidence to the Prosecutor to present the case to a judge or jury. The judge or jury determine criminal liability.

In a law enforcement-led system, the police and/or prosecutor are responsible for leading both the criminal and medicolegal investigation. In some countries, there is a medicolegal division within the police department or the prosecutor’s office with trained medical and forensic specialists who help identify the body and determine cause and manner of death. In other countries, the police or prosecutor contract with outside medical and forensic specialists to identify the body and determine the cause and manner of death. In a law enforcement-led system, the chief of the police department or prosecutor’s office, or the head of the medicolegal division within the police department or prosecutor’s office, is ultimately responsible for

¹⁶⁹ Id. at p. 287.

¹⁷⁰ Id. at p.287.

¹⁷¹ Id. at 285.

¹⁷² Coroner and Justice Act 2009, Sec. 20, 21.

ensuring that the body is identified and that the circumstances surrounding the death are determined.

Centralized versus Decentralized: Some countries have a centralized system and others have a decentralized system. In a centralized system, there will be an individual at the national level that leads the entire system for the country, with local offices that answer to the national level. For example, New Zealand has a Chief Coroner who is responsible for oversight of the work of all sub-national level coroners to ensure orderly, efficient and standardized practice throughout the country.¹⁷³ In a medical examiner system, it is the role of a Chief Medical Examiner at the national level to oversee the work of subnational level medical examiners to ensure orderly, efficient and standardized practice throughout the country. In a law enforcement-led system, the chief of police, chief prosecutor, or the head of a medicolegal death investigation division within the national police department or prosecutor's office, supervises medicolegal death investigations conducted by local police departments throughout the country.

In a decentralized system, jurisdictions at the subnational level maintain their own MLDI systems, and the type of system may vary across jurisdictions. For example, in Canada, the provinces of Alberta, Manitoba, Nova Scotia and Newfoundland, and Labrador have a Medical Examiner system. All other provinces have a coroner system. Even in a decentralized system, there should be an agency at the national level to create minimum standards or to work cooperatively with decentralized offices to ensure generally uniform practices and procedures. While many decentralized systems lack this guidance from a central authority, there have been calls in recent years for more uniformity of practice in decentralized systems. For example, in 2016, the Canadian Medical Association Journal called for a national authority for coroners and medical examiners, which would ensure different jurisdictions use the same standards and classify deaths in the same way.¹⁷⁴ In the US in 2016, the National Commission on Forensic Science recommended drafting of model law to assist State governments to improve the quality of their medicolegal death investigation statutory framework and their ability to conduct adequate medicolegal death investigations.¹⁷⁵

As shown from the above discussion, there is no "best practice" regarding the structure of MLDI systems. Regardless of the type of system a country maintains, the focus should be on producing high quality, independent, accurate, timely and complete information, including cause and manner of death, for medicolegal death investigations. To this end, regardless of the type of system, it is essential that a physician leads the medical evaluation in an MLDI case and be responsible for determining cause and manner of death.

Guidance: The questions in this section will help you assess the type of system you have. The questions in the sections that follow will help assess whether the system in your country is producing the best possible information and guide an analysis of opportunities for reform. First, determine whether your system is centralized or decentralized, then answer the questions under the appropriate section. In making this determination, consider questions of federal versus local authority in your country's Constitution. In the comment sections, state any additional observations you have about the structure of your MLDI system and any opportunities for regulatory reform.

If your system is centralized, answer the questions in section a. If decentralized, answer the questions in section b.

a. Centralized Systems:

- i. **Describe type of MLDI system in your country** (i.e. coroner, medical examiner, hybrid or law enforcement-led system).

Citation:

¹⁷³ New Zealand Coroners Act 2006, Section 7, available at: <http://www.legislation.govt.nz/act/public/2006/0038/latest/whole.html>

¹⁷⁴ Elyse Skura, CBC News, *National standards needed for coroners, medical examiners, says CMAJ editorial*, 1 February 2016, available at: <https://www.cbc.ca/news/canada/north/coroners-medical-examiners-national-authority-cmaj-editorial-1.3428705>.

¹⁷⁵ National Commission on Forensic Science, *Recommendation to the Attorney General Model Legislation for Medicolegal Death Investigation Systems*, January 2017, available at: <https://www.iustice.gov/archives/ncfs/work-products-adopted-commission>

Comment:

- ii. **Describe the location of subnational offices of the MLDI authority** (e.g., Province/State or District/City/County)

Citation:

Comment:

b. Decentralized Systems:

- i. **At what political sub-division level are MLDI lead offices located?** (e.g., Province/State or District/City/County)

Citation:

Comment:

- ii. **Describe the type of system or systems throughout the country** (noting whether each political subdivision has the same type of system or whether it varies by sub-division).

Citation:

Comment:

- iii. **Is there an agency at the national level that provides guidance or supports the sub-national jurisdiction MLDI authorities?** If so, state the agency and describe its role. State whether there is a model law or national guidance/standards issue by the agency.

Citation:

Comment:

3. Organizational Situs of the Office of the Medical Examiner/Coroner within the MLDI system

Good practice: Just as the structure of MLDI systems varies across countries, the ministry or agency in which the MLDI authority is housed varies across countries. [*Reminder: The “MLDI authority” is the entity responsible for non-legally binding finding of fact regarding: Who died? When did the death occur? Where did the death occur? What was the cause of death? And what was the manner of death?*]. For example, the office of the Chief Medical Examiner or Chief Coroner might be situated within the Ministry of Health, the Ministry of Justice, the Attorney General's Office, the Ministry of Interior or Home Affairs, or within an academic medical institution. In a law enforcement-led system the MLDI authority is the police department or prosecutor's office (or a division within those entities) , which may be housed within a Ministry of Interior or Home Affairs, the Ministry of Justice, the office of the Attorney General or Chief Prosecutor, or

another ministry. The MLDI authority may also be an autonomous agency overseen by a governing board.

There is no single best practice with regard to organizational location and there are advantages and disadvantages to each set up. For example, establishing the MLDI authority within law enforcement (e.g., Police Department, Office of the Prosecutor General, the Ministry of Interior) may help ensure sufficient funding and resources for the MLDI system, as law enforcement is often well funded. However, this set up may lead to, or give the appearance of, a lack of independence of forensic pathologists and other forensic experts that work with law enforcement, particularly when investigating deaths that occur while in custody or in other state institutions. In such systems where the medical professional has dual obligations, the system should be designed to maintain the medical professional's independence and duty to report cause and manner of death to the best of their knowledge.¹⁷⁶ Situating the MLDI authority within the Ministry of Health may help ensure independence of medicolegal death investigations but may leave the MLDI authority with less resources, as the Ministry might prioritize the funding of other initiatives above MLDI.

Autonomous agencies might be well-funded and independent or ill-funded and subject to political influence. Autonomous agencies (and sometime other types of MLDI authorities as well) are overseen by a governing board, which can help detect and correct problems and failures of the office, maintain accountability, and provide the public with information. Members of a governing board should have an interest in and knowledge of the functions of the office, such as physicians, public health and public safety officials. However, if board members are politicians or appointed political officers, the work of the agency could be subject to influence or interference. Resources of an independent agency will depend on whether funding is guaranteed by establishing legislation and the priorities of the government.

Thus, every type of organizational set up has implications for two primary concerns: 1) independence of MLDI officials from influence by law enforcement or political agendas, and 2) sufficient funding and resourcing of the system to perform its duties appropriately and generate high quality information. What organizational situs for the MLDI authority is best will depend on country context. Regardless of where the MLDI authority is housed, there should be a clear organizational structure and lines of authority.

Guidance: Answer the questions below regarding the organizational situs of the MLDI authority. In the comment sections, state your observations about the pros and cons of the organizational situs of the MLDI authority, including whether and how the situs of the MDLI authority affects its independence and resources.

- a. **Describe where the MLDI authority is located institutionally.** Under which ministry, agency or institution does it fall?

Citation:

Comment:

- b. **Does the head of the MLDI authority (i.e., chief medical examiner, chief coroner, or chief of police) report to anyone and, if so, whom?**

Citation:

Comment:

- c. **Does the MLDI authority have a clear organizational structure and chain of command, including clear lines of authority and reporting?**

Citation:

¹⁷⁶ See Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, United Nations, 2004, at paragraphs 66 – 73, available at: <https://phr.org/issues/istanbul-protocol/>

Comment:

- d. **Is there an oversight board for the MLDI authority?** If so, describe its composition, state the affiliations of the board members, and describe how they are selected or appointed.

Citation:

Comment:

4. Stakeholder Cooperation

Good Practice: An MLDI system has multiple stakeholders, which at a minimum includes law enforcement, the office of the coroner or medical examiner (depending on type of system), the health sector, the public health agency, the civil registration agency, and the national statistics agency. Law enforcement leads MLDI in a law enforcement-led system. However, even in a coroner or medical examiner system, the police and/or prosecutor have an important role, as they are required to notified the coroner/medical examiner of a death under their jurisdiction and the two entities share evidence with each other.

The health sector engages with MLDI on jurisdiction (e.g., if a death occurs in a health facility, the facility will refer reportable deaths to the MLDI authority for determination of jurisdiction), case transfer, and mass casualty management; and in some countries provide contractual forensic services. The public health agency may engage with MLDI for lab services of notifiable diseases and possibly the notifying of deaths if civil registration is a responsibility of the agency. The civil registration authority must ensure that all MLDI deaths are registered, and the national statistics agency is responsible for compiling MLDI statistics.

Other stakeholders may include the judiciary. For example, in some countries, magistrates are coroners; in other countries magistrates may play a role in directing police investigations.

Strong cooperation is needed among all stakeholder entities to ensure efficient and effective medicolegal death investigation and compilation of quality MLDI statistics. Therefore, some kind of coordination mechanism should be put in place. In some countries, this takes the form of a coordination committee with representation of all stakeholders. In other countries, the MLDI authority establishes MOUs with various stakeholders. For example, a medical examiner office may have an MOU with law enforcement regarding cooperation and responsibilities at a crime scene. These arrangements are not necessarily contained in legislation or regulations but should be put in place in a manner that ensures regular meetings and cooperation among stakeholders.

Guidance: Describe all stakeholders in the MLDI system and any coordination mechanism. You may need to consult with the MLDI authority and other stakeholders to answer the questions below, as coordination mechanisms may not be contained in the legal framework. In the comment sections, note if any key stakeholders are missing from the coordination mechanism, any barriers to stakeholder cooperation and opportunities for improved coordination.

- a. **Describe any stakeholder coordination mechanisms currently in place.** If the mechanism is a committee, describe the affiliation of members of the committee and who chairs the committee. In the comments, note any stakeholders that are missing from this mechanism.

Citation:

Comment:

- b. **Describe the frequency of stakeholder meetings** (including those required by the legal framework or MOUs, and those that take place on an ad hoc basis).

Citation:

Comment:

5. Qualifications of head of MLDI authority and head of subnational offices

Depending on the type of system, the head of the MLDI authority may be a Chief Medical Examiner (or similar term, such as National Forensic Pathologist), a Chief Coroner or, in a law enforcement-led system, the Chief of Police or Chief Prosecutor or the head of the Medicolegal Division with the police or prosecutor's office. Whatever the system, the head of the MLDI authority is responsible for ensuring that medicolegal deaths are investigated and the cause and manner of death are determined in an impartial and professional manner. The head of the MLDI authority holds significant powers and responsibilities and therefore the legal framework should set out the qualifications of the head of the MLDI authority to ensure that they have the necessary knowledge and skills to carry out their duties. Likewise, Medical Examiners, Coroners, and police or prosecutors at the subnational level (who answer to the head of the national system), must also be qualified to carry out their duties. The requisite qualifications differ for the head of a medical examiner system, coroner system, and law enforcement-led system. They are therefore discussed separately below. If your country has a medical examiner system, complete section 5A below. If your country has a coroner system, complete section 5B below. If your country has a hybrid system with both a Chief Medical Examiner and a Chief Coroner, complete sections 5A and 5B. If your country has a law enforcement-led system, complete section 5C.

5.A. Qualifications of Chief Medical Examiner (CME)

Good practice: Ideally, the CME is a trained forensic pathologist. However, given the lack of forensic pathology training programs globally, this may not be possible in many countries. At a minimum, the CME should be a physician certified in pathology, in accordance with your country's medical licensing or certification requirements. In addition to educational and professional licensing requirements, the legal framework should state the minimum numbers of years of experience required. While practices vary, in many jurisdictions 5 years is the minimum required experience. The CME should be a full-time official who is adequately paid. The CME should be selected or appointed or selected based on qualifications, and should enjoy civil service status, contractual agreements, or other similar types of protection, to ensure that they are not subject to political or police pressure or interference and they can only be dismissed or disciplined for appropriate cause.¹⁷⁷ The CME should not be an elected official.

Depending on the size of the jurisdiction, there may be local offices below the level of the central office, each headed by a Medical Examiner (ME) who reports to the CME. Ideally, each of these MEs is a trained forensic pathologist; however, at a minimum the ME should be a physician certified in pathology, in accordance with your country's medical licensing or certification requirements. The minimum number of years of experience required will be less than that of the CME, and varies by jurisdiction. An ME should be a full-time official, adequately paid, and should enjoy civil service status, contractual agreements, or other similar types of protection, to ensure that they are not subject to political or partisan pressure or interference and they can only be dismissed or disciplined for appropriate cause.¹⁷⁸

¹⁷⁷ Melinek, J., et. Al, *National Association of Medical Examiners Position Paper: Medical Examiner, Coroner, and Forensic Pathologist Independence*, NAME Position Papers, Volume 3, Issue 1, p.95.

¹⁷⁸ Melinek, J., et. Al, *National Association of Medical Examiners Position Paper: Medical Examiner, Coroner, and Forensic Pathologist*

Guidance: Describe the required qualifications for the CME and MEs and whether they enjoy civil servant status or similar protections. These qualifications may be contained in the laws establishing your MLDI authority. They may also be contained in your civil service laws, if these positions are civil service positions. In the comment sections, analyze any deficiencies in required qualifications.

- a. **Described any required qualifications for the CME**, including any licensing or certification requirements and years of experience. State whether the CME enjoys civil servant status or similar protections.

Citation:

Comment:

- b. **Describe any required qualifications for Medical Examiners that head local offices below the central level**, including any licensing or certification requirements and years of experience. State whether MEs enjoy civil servant status or similar protections.

Citation:

Comment:

5.B. Qualifications of Chief Coroner

Good Practice: The qualifications required to be Chief Coroner (CC) vary greatly across countries and jurisdictions. In many countries, a CC must be a legal professional (e.g., judge, lawyer or prosecutor), in some the CC must be a medical professional, and in other countries the CC must be either a legal or medical professional.¹⁷⁹ In some countries or jurisdictions, including in some parts of the U.S., there are no required qualifications and a coroner may be a layperson and is often an elected official. This is not good practice. Coroners must serve the public interest. If they are elected officials, they may be influenced by political or reelection concerns, which can interfere with the responsibility to render an impartial opinion on manner and cause of death. In addition, as lay persons, they may lack the knowledge and skills to fulfill the role of coroner.

The CC, whether a legal or medical professional, should be a trained and certified professional. A CC required to have a legal background should be licensed to practice law in their jurisdiction. A CC required to have a medical background should ideally be a forensic pathologist, but at a minimum should be a physician certified in pathology, in accordance with the country's medical licensing or certification requirements. The legal framework should state the minimum numbers of years of experience required to be CC. The CC should be a full-time official who is adequately paid. The CC should be selected or appointed based on qualifications, not a political appointee or elected official, and should enjoy civil service status,

Independence, NAME Position Papers, Volume 3, Issue 1, p.95.

¹⁷⁹ For example, in Australia, the Coroner is a magistrate with legal training. In Canada, some provinces have an ME systems and others have a coroner system. In those provinces with a coroner system, some by law require the coroner to be physician; others do not require the coroner to be a physician but the coroner generally has a medical, legal or investigative background. In Hong Kong, the Coroner is a judicial officer. In Ireland, the Coroner is appointed by local authorities and is a qualified doctor or lawyer. In New Zealand, coroners are Judges of the Coroners Court. In the United Kingdom the Coroner is an independent judicial office holder, appointed and paid for by the relevant local authority. In Spain, coroners are medical doctors.

contractual agreements, or other similar types of protection, to ensure that they are not subject to political or partisan pressure or influence and they can only be dismissed or disciplined for appropriate cause.

Depending on the size of the country or jurisdiction, there may be local offices below the level of the central office, each headed by a Coroner who reports to the CC. Like the CC, the Coroner at the local level should be a qualified legal or medical professional, with qualifications similar to that of the CC, but with less required years of experience. A Coroner at the subnational level should be a full-time official and adequately paid. A subnational Coroner should be selected or appointed based on qualifications, not a political appointee or elected official, and should enjoy civil service status, contractual agreements, or other similar types of protection, to ensure that they are not subject to political or partisan pressure or influence and they can only be dismissed or disciplined for appropriate cause.

Guidance: Describe required qualifications and selection or appointment process for the Chief Coroner and Coroner. If the Chief Coroner is not a medical professional, describe who is responsible for the medical examination of the body. In the comment sections, analyze whether the qualifications for the Chief Coroner/Coroner and the person responsible for medical examination of the body are such that they ensure high quality information regarding cause and manner of death.

-
- a. Describe any required qualifications for the CC, including any licensing or certification requirements and years of experience. State whether the CC enjoys civil servant status or similar protections.**

Citation:

Comment:

- b. Describe any required qualifications for Coroners that head local offices below the central level, including any licensing or certification requirements and years of experience. State whether Coroners enjoy civil servant status or similar protections.**

Citation:

Comment:

5.C. Qualifications of the head of a law enforcement-led system

Good Practice: Some law enforcement-led systems have an internal medicolegal division with medical specialists within the police department or prosecutor's office. For example, the Philippine National Police has a Medicolegal Division headed by the Chief of Medicolegal, who is a pathologist, and each region has its own medicolegal officer, who is also pathologist. Cases are referred to the medicolegal officers by the investigating officer on a case. Other law enforcement-led systems do not have internal medical experts and contract out for medical and forensic services. We discuss each type of law enforcement-led system separately.

In law enforcement-led systems with an internal medicolegal division, the Chief of the Medicolegal division (CML) (or similar term) ideally is a trained forensic pathologist. However, given the lack of forensic pathology training programs globally, this may not be possible in many countries. At a minimum, the CML should be a physician certified in pathology, in accordance with your country's medical licensing or certification requirements. In addition to educational and professional licensing requirements, the legal framework should state the minimum number of years of experience required. The CML should be a full-

time official who is adequately paid. The CML should be selected or appointed based on qualifications, and should enjoy civil service status, contractual agreements, or other similar types of protection, in order to avoid being subject to influence or interference from other police officers or political actors.

Depending on available resources, each local police/prosecutor department at the subnational level may have a Medicolegal Officer. Ideally, each of these Medicolegal Officers is a trained forensic pathologist; however, at a minimum the Medicolegal Officer should be a physician certified in pathology, in accordance with your country's medical licensing or certification requirements. The minimum number of years of experience required will be less than that of the CML. A Medicolegal Officer should be a full-time official and adequately paid. A Medicolegal officer should be selected or appointed based on qualifications, and should enjoy civil service status, contractual agreements, or other similar types of protection, to ensure that they are not subject to outside pressure or interference and they can only be dismissed or disciplined for appropriate cause.

In a law enforcement-led system that contracts for medical forensic services, the chief of police or chief of a criminal investigation division or chief prosecutor will head the system and be responsible for ensuring that a medicolegal investigation is carried out. At the subnational level, the head of the local police department or head of criminal investigations at the local police department, or local prosecutor, will be responsible for medicolegal death investigations in that jurisdiction. Qualifications to be a police investigator vary by country. Seniority, as well as qualifications, is usually a consideration for becoming Chief of Police, chief of criminal investigations, and chief of a local police department or division. Chief Prosecutors must be lawyers with a specified level of experience.

Because the head of this type of system is not a medical professional, the medical examination of the deceased and determination of cause and manner of death should be conducted by an internal or outside forensic pathologist. (See Section 5 – Staffing and Qualifications of Staff).

Guidance: In question a and describe the required qualifications. In question b, describe who is responsible for conducting the medical examination of the body if the head of the system is not a medical professional. In the comment sections, analyze whether the required qualifications for the head of the system and the person responsible for medical examination are such that they ensure high quality information regarding cause and manner of death.

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- a. **Describe any required qualifications for the police officer or prosecutor that is the head of the law enforcement-led MLDI system**, including years of experience.

Citation:

Comment:

- b. **If the head of the system is not a medical professional, describe who is responsible for conducting the medical examination of the body**, including any required qualifications.

Citation:

Comment:

6. Power to issue SOPs, practice guidelines

Good Practice: To help to achieve best practice and consistency in practices across the country, the head of the MLDI authority (e.g., Chief Medical Examiner, Chief Coroner, or Chief of Police/Chief of Medicolegal Division of Police or Prosecutor) should have the power to issue rules and standard operating procedures for medicolegal death investigations. These SOPs may be guided by international standards such as those by the International Organization for Standardization (ISO).

Guidance: Describe whether the head of the MLDI authority has the power to issue rules or SOPs. In the comments section note any observations regarding this authority and any opportunity for regulatory reform.

-
- a. Describe whether the head of the MLDI authority has the power to issue rules or SOPs to help achieve best practice and uniform practice across the country.

Citation:

Comment:

7. Staffing

Good practice: The head of the MLDI system does not work alone. The determination of cause and manner of death often involves the work of a core team of specialists, which may include medicolegal death investigators, forensic pathologists, forensic anthropologists, forensic odontologists, forensic toxicologists, histologists, radiologists, forensic technicians/autopsy technicians and forensic photographers. (The roles of these specialists are described below). It is important that the CME, CC or head of the law enforcement-led system have access to these specialists, whether in-house or through contractual services.

In a well-resourced system, the office of the Chief Medical Examiner, Chief Coroner, or the police department or prosecutor's office may have a full core team of specialists on staff. Alternatively, some of these core specialists might be housed in a separate central government lab, where the office of the head of the MLDI authority can access these central services. For systems that have these types of professionals as core staff - either in the office of the CME/CC, within the police department/prosecutor's office, or in a separate government lab - the legal framework should describe the roles and responsibilities of each core position, and require that core personnel be appropriately certified. In addition, core forensic staff should enjoy civil service status, contractual agreements, or other similar types of protection, to ensure that they are not subject to political or police pressure or interference and they can only be dismissed or disciplined for appropriate cause.¹⁸⁰

However, in many countries or jurisdictions, funding will be insufficient to support a full core team of forensic and medical professions in-house. Countries or jurisdictions without resources to retain a core team in-house or in a separate government lab often contract for these additional services with trained professionals, who may be located within medical or academic institutions or private entities. The use of non-governmental contractual referral services may be cost-effective but may not ensure an efficient and ready workforce that is available when needed.¹⁸¹ In addition, there may also be quality concerns if oversight mechanisms and qualification requirements are not in place. If contractual services are used, the legal framework should require that all contractors be appropriately certified¹⁸² and should also provide a

¹⁸⁰ Melinek, J., et. Al, *National Association of Medical Examiners Position Paper: Medical Examiner, Coroner, and Forensic Pathologist Independence*, NAME Position Papers, Volume 3, Issue 1, p.95.

¹⁸¹ Weedn, V.W., Model Medical Examiner Legislation, *Academic Forensic Pathology* 2015 5(4), pps 618-620, available at: <https://journals.sagepub.com/doi/10.23907/2015.065>

¹⁸² Id., p 622.

mechanism for oversight of contractors.

Core specialist that the CME, CC, or the police department/prosecutor's office should have access to include:

The Medicolegal Death Investigator (MDI) investigates any death that falls under the jurisdiction of the medical examiner or coroner. The MDI is responsible for the body of the deceased and investigates the direct circumstances surrounding the death, whereas law enforcement is responsible for the crime scene and leads the broader criminal investigation. The MDI performs scene investigations with a focus on collecting evidence and developing information from the decedent and determines the extent to which further investigation by the ME/CC is necessary. MDIs should have a combination of education and skills encompassing areas of medicine and law.¹⁸³ In a law enforcement-led system, this role is usually performed by the police investigator.

The *forensic pathologist* is a subspecialist in pathology whose area of special competence is the examination of persons who die due to unnatural causes, or suddenly, unexpectedly, suspiciously, or violently. The forensic pathologist is an expert in determining cause and manner of death. The forensic pathologist is specially trained: to perform autopsies to determine the presence or absence of disease, injury or poisoning; to evaluate historical and law-enforcement investigative information relating to manner of death; to collect medical evidence, such as trace evidence and secretions, to document sexual assault; and to reconstruct how a person received injuries. Forensic pathologists are trained in multiple forensic sciences as well as medicine. Other areas of science that the forensic pathologist must have a working knowledge of include: toxicology, firearms examination (wound ballistics), trace evidence, forensic serology and DNA technology. The forensic pathologist acts as the case coordinator for the medical and forensic scientific assessment of a given death, making sure that the appropriate procedures and evidence collection techniques are applied to the body.¹⁸⁴

The primary task of a *forensic anthropologist* is to gather and interpret evidence to assist in the identification of human remains. They assess the age, sex, stature, ancestry and unique features of a skeleton, which may include documenting trauma to the skeleton and the time that has elapsed since death.

Forensic odontologists are highly experienced, specially trained dentists who use their expertise to help identify unknown remains and trace bite marks to a specific individual through dental comparison.

Forensic toxicologists perform scientific tests on bodily fluids and tissue samples to determine the presence or absence of any drugs or chemicals in the body. Working in a lab, the forensic toxicologist performs tests on samples collected by forensic pathologists during an autopsy or by crime scene investigators.

Histologists prepare and stain the tissue sections that are collected by the forensic pathologist during autopsy for microscopic examination. This field of study is a diagnostic tool for forensic pathologists to help determine the cause of death.¹⁸⁵

Radiologists are medical doctors that specialize in diagnosing and treating injuries and diseases using medical imaging (radiology) procedures such as X-rays, computed tomography (CT), magnetic resonance imaging (MRI), nuclear medicine, positron emission tomography (PET) and ultrasound.¹⁸⁶ *Forensic radiology* is a specialized area of medical imaging using radiological techniques to assist pathologists in determining cause and manner of death.

Forensic technician/Autopsy technicians provide the pathologist support in conducting the postmortem

¹⁸³ American Board of Medicolegal Death Investigators, FAQ website page, available at: <https://abMLDI.org/faq>.

¹⁸⁴ New Mexico Office of the Medical Investigator website, "About OMI", available at: <https://omi.unm.edu/about/faq/forensic-pathologist.html>

¹⁸⁵ Cuyahoga County Medical Examiner website, Histology, available at: <http://medicalexaminer.cuyahogacounty.us/en-US/Histology-Department.aspx>

¹⁸⁶ American College of Radiology website, available at: <https://www.acr.org/Practice-Management-Quality-Informatics/Practice-Toolkit/Patient-Resources/About-Radiology>

examination and are responsible for cleaning, stocking, morgue management, body pick-up and release, and maintaining records. Forensic technician/autopsy technicians are not licensed clinicians and build capacity in these duties through on the job training and educational programs.

Forensic Photographers (also known as crime scene photographer or evidence photographer) is a professional photographer who is skilled in the art of producing detailed photographs that record the crime scene and the physical evidence within the crime scene as objectively and accurately as possible. A forensic photographer may also be responsible for taking photos of autopsy. A forensic photographer provides context images (showing evidence in context), close-up images (showing fine details), and overall images (showing the general layout of a crime scene) or produce a permanent, visual record of the scene. In some jurisdictions, forensic photography may not be a separate position but instead be included as a responsibility within the role of the forensic technician and/or medicolegal death investigator.

Guidance: Answer the questions regarding staffing. Note that this might be found in laws, office manuals, or terms of reference (TOR). For question d regarding contractual services: these requirements may be contained in SOPs or TORs, rather than legislation or regulations. In the comment sections, analyze whether the legal framework ensures that staffing is adequate, and whether additional needs are adequately met by properly trained contracted professionals. Note any gaps in the system and opportunities for regulatory reform.

- a. Describe the core team of specialists on staff in the office of the CME, CC, or within the police department/prosecutor's office .

Citation:

Comment:

- b. Describe any core specialists on staff in any separate government laboratory facility.

Citation:

Comment:

- c. If additional needs are met through contractual services:
- i. To whom are these services are contracted?
 - ii. Describe the required qualifications for those to whom services are contracted.
 - iii. Describe any oversight mechanisms of contractors established in the legal framework.

Citation:

Comment:

8. Accessibility of forensic services throughout the country and transportation

Good practice: Every person and every region of the country should have access to quality MLDI services. This is important for all system stakeholders, as well as for family members of the deceased.

The accessibility of medicolegal services depends partly on the location of MLDI authority offices

throughout the country. Depending on the size of the country and available resources, there may be only one MLDI office in the country, located at the central level, or there may also be local offices at the sub-national level. Multiple offices have the advantage of local contact, ensuring that all deaths that should be referred to the MLDI system can be reviewed by the local medical examiner, coroner or police personnel.

However, even if there is a local office of the MLDI authority, that does not necessarily ensure that trained forensic pathologists and other forensic specialists are available at that level. The core staff in subnational offices may vary and the availability of contractual services for core forensic functions may be limited in some areas. For example, a district may have a local coroner office but the nearest accredited pathologist may be located in the regional capital or national capital. Or, a district may have medical examiner office, staffed by a trained pathologist, but may lack specialized equipment – such as CT and X-ray equipment - that is only available at the regional or national level office. Similarly, in a law enforcement-led system, the necessary personnel and/or equipment may not be available locally, either in-house or through contractual services.

Bodies must be transported from the scene of the death to an MLDI office with the necessary personnel and equipment. That MLDI office may be nearby, or may be in a distant city with the needed resources. Either way, transportation must be provided through a reliable formal service - such as MLDI morgue service or a medical transportation service -that follows set protocols for chain of custody, prevention of tampering, and maintenance of the body and other evidence. The family of the deceased should never be responsible for transporting the body, as this can result in loss of evidence.

Some countries use videoconferencing to overcome distribution of resource issues. This allows forensic pathologists or other medical/forensic professionals in regional offices to seek the advice of medical examiners in the central office and, if deemed necessary, a body can be transported to the central office.

Guidance: Describe accessibility of medicolegal services throughout the country. You may need to consult with the head of the MLDI authority to answer this question. In the comment section describe challenges faced, if any, due to availability and/or accessibility of medicolegal services.

Describe requirements regarding transportation of dead bodies. These may be found in law or SOPs. In the comment section analyze whether the legal framework adequately protects the integrity of the dead bodies and other evidence.

-
- a. **Describe, as best as possible, what types of forensic experts and equipment are available** at the national, regional and district level, whether through in-house services, government lab, or contractual services. Note any specific areas or regions of the country that lack forensic experts or equipment.

Citation:

Comment:

- b. **Describe requirements in the legal framework regarding transportation of dead bodies.** State if protocols are in place for chain of custody and maintenance of the body and evidence.

Citation:

Comment:

9. Scope of Jurisdiction - Cases that must be referred to MLDI for investigation

Good practice: The legal framework should clearly state what types of cases must be referred to the MLDI authority (i.e., coroner, medical examiner, police) and who must report those cases.

Types of cases that fall within MLDI jurisdiction: Deaths due to known or suspected unnatural or external causes should be referred to the MLDI authority. This includes deaths due to violence, injury, self-harm, suspicious causes, and sudden or unexpected or unexplained deaths.¹⁸⁷

Under the Minnesota Protocol on the Investigation of Potentially Unlawful Death, all potentially unlawful deaths at the hands of the state must be investigated, and therefore should be referred to the MLDI authority. All deaths in custody should be viewed as a potentially unlawful death at the hands of the state, and therefore under the jurisdiction of the MLDI authority. "Deaths in custody" refers to those deaths in which the circumstances of the death place the decedent in either direct or indirect contact with law enforcement such as incarceration, apprehension, and pursuit. Deaths in custody include, but are not limited to, police shootings, arrest-related deaths, apprehension deaths, legal intervention deaths, and in-custody deaths.¹⁸⁸

Under the Minnesota Protocol, a "death at the hands of the state" includes not only deaths in custody, but also deaths linked to a possible state failure "to exercise due diligence to protect an individual or individuals from foreseeable external threats or violence by non-State actors". For example, the death of a prisoner killed by another inmate should be viewed as a potential state failure to protect the prisoner and should be referred to the MLDI authority. Deaths in state institutions other than prisons – such as publicly run psychiatric hospitals, elder facilities, and facilities for minors – should also be referred to the MLDI authority. A prompt, impartial and effective investigation of these deaths is key to ensuring accountability.

Some countries or jurisdictions, including New Zealand, the State of California and the District of Columbia in the U.S., require deaths due medical or surgical intervention to be referred to the MLDI system. This is sometimes referred to as "therapeutic misadventure," which is defined as an injury or an adverse event caused by medical management rather than by an underlying disease.¹⁸⁹

In addition, in many countries the death of a person not under the care of a physician must be reported to the MLDI authority in order for the MLDI authority to determine whether the death was due to natural or unnatural causes. This is often a requirement in countries where most people die in a health facility or under medical supervision. However, in countries where many or most people die at home, while not under the care of a physician, this could overwhelm the MLDI authority. In countries with these circumstances, the police, or a physician or other healthcare worker, may be responsible for making the decision on whether to refer the case to the MLDI authority. Thus, the police or healthcare worker would be responsible for determining whether the death was due to natural or unnatural causes. If they cannot make such a determination, the case should be referred to the MLDI authority.

There is often confusion as to how to treat cases of persons brought into a health facility dead on arrival (DOA) (also referred to as "brought in dead"). In these cases, if the deceased was under the care of physician who is able to determine cause of death and does not believe the death to be due to unnatural or suspicious causes, that physician should be responsible for certifying cause of death. This type of case is not referred to the MLDI authority. If the deceased was not under the care of a physician, this is a medically-unattended death and should be treated in the manner discussed in the above paragraph. Thus, in some countries all medically unattended DOA would be referred to the MLDI authority. However, in countries where this is not practical because it would overwhelm the MLDI authority, the attending physician at the health facility (or head of health facility) should be responsible for making the determination on whether to

¹⁸⁷ The (U.S.) National Association of Medical Examiners Forensic Autopsy Performance Standards require the following types of cases to be referred to the CME/C for investigation: 1) deaths due to violence, 2) known or suspected non-natural deaths, 3) unexpected or unexplained deaths when in apparent good health, 4) unexpected or unexplained deaths of infants and children, 5) deaths occurring under unusual or suspicious circumstances, 6) deaths of persons in custody, 7) deaths known or suspected to be caused by diseases constituting a threat to public health, 8) deaths of persons not under the care of a physician.

¹⁸⁸ Mitchell, Roger A., et al., *National Association of Medical Examiners Position Paper: Recommendations for the Definition, Investigation, Postmortem Examination, and Reporting of Deaths in Custody*, *Academic Forensic Pathology Journal*, 2017, p. 606.

¹⁸⁹ Langford, N.J., *Therapeutic Misadventure*, *Med. Sci. Law*, 2010, Volume 50(4), pp. 179-182.

refer the case to the MLDI authority. If the attending physician believes the death is due to unnatural or suspicious causes or for any other reason cannot determine cause of death, the death should be referred to the MLDI authority.

In some countries or jurisdictions - for example, the District of Columbia in the U.S.¹⁹⁰ - deaths known or suspected to be caused by diseases constituting a threat to public health are referred to the MLDI authority in order to gain a better understanding of disease pathology. Types of diseases may include infectious diseases, highly contagious diseases or rare diseases. Medical examiner systems are more likely to include these types of cases within the jurisdiction of the MLDI authority than coroner or law enforcement-led systems, as law enforcement-led systems tend to focus more on deaths with a suspected criminal or negligence component.

Determination of Jurisdiction: While all of the above types of deaths should be referred to the MLDI authority, the head of the MLDI authority should have the power to conduct a preliminary investigation to determine whether the death is due to causes that fall within the jurisdiction of the MLDI authority, and therefore requires further investigation, or whether the death is due to natural causes and therefore jurisdiction may be declined. The legal framework should be clear in granting the head of the MLDI authority, or their designee, the power to determine whether jurisdiction exists based on information provided through reported information and the preliminary investigation process, which may include investigative work by a medicolegal death investigator, a forensic pathologist and/or other professional staff or contracted specialists. For deaths in custody in law enforcement-led systems, it is important that procedures are put in place to insulate the medicolegal officer/forensic pathologist from police department pressure or influence, in order to ensure an impartial evaluation of the cause and manner of death.¹⁹¹

Guidance: Answer the questions below. In comment section, compare the law to best practice. Note whether the law is clear and comprehensive in scope regarding deaths that must be referred to the MLDI authority and whether the types of cases are appropriate for country context. Analyze whether the MLDI authority is protected from outside influence or pressure when investigating deaths in custody. Note any observations regarding the power to make a preliminary assessment and any gaps in the legal framework.

a. Describe the types of cases that must be referred to the MLDI authority:

Citation:

Comment:

b. Describe whether the head of the MLDI authority has the authority to conduct an initial assessment to determine whether to accept jurisdiction over a referred case, and what factors (if enumerated in the law) go into that assessment. In a law enforcement-led system, pay particular attention to who (specifically) makes this initial assessment on whether the case is referred for MLDI.

Citation:

Comment:

c. Are deaths in custody referred to the MLDI authority? Is "deaths in custody" defined?

¹⁹⁰ Code of the District of Columbia, Title 5, Chapter 14, §5-1405 (requiring investigation of "Deaths related to disease which might constitute a threat to public health").

¹⁹¹ See Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, United Nations, 2004, at paragraphs 66 – 73, available at: <https://phr.org/issues/istanbul-protocol/>

Citation:

Comments:

- d. Describe how are dead on arrival cases are handled and if some or all are referred to the MLDI system.

Citation:

Comment:

10. Cases requiring autopsy

Good practice: An autopsy is a surgical procedure that consists of an examination of a corpse by dissection to determine the cause and manner of death and to evaluate any disease or injury that may be present. An autopsy should be conducted by a medical examiner, pathologist, or other physician trained in this type of examination.¹⁹² In some jurisdictions, the term “autopsy” is used synonymously with the term “post-mortem examination”; in other jurisdictions, “post-mortem examination” is a broader term that encompasses both an external examination of the body and an internal examination by dissection. We use the term “autopsy” in this toolkit to refer to an internal examination of the body by dissection, and “post-mortem” to refer to the broader term.

Not all cases referred to the MLDI authority require an autopsy. In some cases, external examination, toxicology, tissue sampling (histology), radiographic imaging (x-ray, CT scan) or other examination methods may be sufficient. The law should authorize the head of the MLDI authority (chief coroner, chief medical examiner, chief medicolegal officer/chief investigator) to determine whether an autopsy is needed. It is important that the head of the MLDI authority has the discretion to make this determination, as this conserves resources for the cases that are most in need of autopsy, which is especially important if a system has limited capacity for autopsies.¹⁹³ In systems where the head of the MLDI authority is not a medical professional, the head of the MLDI authority should make this determination in consultation with a forensic pathologist. For deaths in custody in a law enforcement-led system, it is important that procedures are put in place to insulate the medicolegal officer/forensic pathologist from police department pressure or influence in making a determination on whether an autopsy is needed.¹⁹⁴

The head of the MLDI authority should be authorized to issue guidelines for other coroners/medical examiners/medicolegal officers on when to perform an autopsy. These guidelines should reflect and be appropriate for the country context and available resources.¹⁹⁵

In cases where the head of the MLDI authority determines an autopsy is necessary, consent of next of kin should not be required. Some jurisdictions allow the next of kin to object to an autopsy on religious grounds and request an exemption. However, the head of the MLDI authority should have authority to deny the request for an exemption if the death is a suspected homicide or there is a public health reason to

¹⁹² Dolinak D., Matshes E.W., & Lew, E.O, *Forensic Pathology: Principles and practice*, Elsevier Academic Press, 2005

¹⁹³ See, e.g., Code of District of Columbia, §5-1409.

¹⁹⁴ See *Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, United Nations, 2004, at paragraphs 66 – 73, available at: <https://phr.org/issues/istanbul-protocol/>

¹⁹⁵ The (U.S.) National Association of Medical Examiners (NAME) recommendations on when to conduct an autopsy can be found in the NAME Forensic Autopsy Performance Standards, available at: <https://www.thename.org/assets/docs/2016%20NAME%20Forensic%20Autopsy%20Standards%209-25-2020.pdf>

conduct the autopsy.¹⁹⁶ The law should allow next of kin to challenge in court a denial of such a request for an exemption.

There has been a focus in recent years on “minimally invasive autopsy” and “virtual autopsy”, particularly in places where there is a cultural objection to autopsy. A minimally invasive autopsy is a systematic methodology targeting various organs and bodily fluids, that aims to provide sufficiently good quality samples for pathological and microbiological investigations to serve as a substitute for a complete dissection autopsy.¹⁹⁷ A virtual autopsy is a non-invasive autopsy that uses various techniques including 3D surface scanning, CAT scans and MRIs as an alternative to a dissection autopsy.¹⁹⁸ Do not be confused by these terms. “Autopsy” has the meaning stated above (in the first paragraph of this section). “Minimally invasive autopsy” and “virtual autopsy” are alternative methods of examination that may be available to a pathologist to determine cause and manner of death. The important point is, the law should empower the medical examiner/forensic pathologist to determine the appropriate method to use to determine cause and manner of death; be that a full autopsy, or some other less invasive method. The head of the MLDI authority may issue guidelines or SOPs on when these methods are appropriate; however, the law should not dictate any particular method.

In the event the head of the MLDI authority determines an autopsy is *not* necessary, but police believe it is necessary, the Solicitor General/Chief Prosecutor should be able to appeal the decision to a court to order an autopsy.

Guidance: *In questions a and b*, describe who is authorized to conduct an autopsy and under what circumstances an autopsy is conducted. In the comment sections, analyze whether the law sufficiently empowers the head of the MLDI authority and associated medical professionals to make decisions appropriate for the country and medical context. *In questions c, d and e*, describe the circumstances and process for next of kin to object to an autopsy. In the comment section, state any observations about whether provisions for objection to autopsy ensure or hinder complete and accurate MLDI information. *In question f*, describe how requests for an autopsy by next of kin are handled. In the comment section, state any observations on appropriateness for context.

-
- a. Describe who is authorized to conduct an autopsy** (pay attention to what credentials are required).

Citation:

Comment:

- b. Describe the legal framework regarding when an autopsy is conducted** (which may be addressed in SOPs). Specifically address whether the head of the MLDI authority has the power to make this decision, and address whether a non-medical professional (coroner or investigating officer) must consult with a pathologist when making this decision.

Citation:

Comment:

¹⁹⁶ Weedn, V.W., Model Medical Examiner Legislation, *Academic Forensic Pathology* 2015 5(4), pps 621-622; See also New Zealand Coroners Act 2006, Sec. 33.

¹⁹⁷ Basset, Q., *Minimally Invasive Autopsy: Welcoming a New Tool for Cause of Death Investigation in Children in Resource-constrained Countries*, *Journal of Tropical Pediatrics*, Volume 63, Issue 4, August 2017, Pages 249–252.

¹⁹⁸ Tejaswi, K.B, and Periya, E.A.H, *Virtopsy (virtual autopsy): A new phase in forensic investigation*, *Journal of Forensic Dental Sciences*, 2013 Jul-Dec; 5(2): 146–148.

- c. Describe the legal framework regarding who may object to an autopsy, on what grounds such an objection can be made, and any process to challenge in court the decision to autopsy:

Citation:

Comment:

11. Autopsy/External Examination Report and Case File

Good Practice: A medicolegal death investigation is not merely a matter of autopsy performance (or external examination) and determination of cause and manner of death. A series of steps comprises the totality of the investigation. Fulfillment of these steps strengthens - whereas omission weakens - the investigation and conclusions of the forensic pathologist, the medical examiner, or the coroner. The *case file* of a proper forensic death investigation consists of documentation of the scene and circumstances and autopsy (if one was done) using photography diagram and text.¹⁹⁹ The case file includes the investigation report, autopsy report (if one was conducted) and may include any or all of the following reports: toxicology, criminalist, gunshot residue, and a variety of other specialist reports. A case file also includes correspondence, medical records and any other documents related to the pathologist's investigation. (See section 21 for Archiving of Records and Access to Records).

An *autopsy or external examination report* (also called "post-mortem report" or pathologist report" or similar term) is part of the case file. At the conclusion of a case, the head of the MLDI authority (or their designee) should ensure that an Autopsy Report, or an External Examination Report if no autopsy was conducted, is completed. SOPs should set out the contents of this report, which should concisely present the following components:

- External examination
- Evidence of injury
- Evidence of medical therapy or treatment
- Internal examination (if autopsy conducted)
- Toxicology
- Summary of findings
- Cause and manner of death²⁰⁰

This report should clearly and factually present findings for all completed components since it may be read by other physicians, law enforcement, attorneys, and family members. The law should require the medical professional that conducted the autopsy/external examination to complete and sign the report. Here again, for deaths in custody in a law enforcement-led system, it is important that the medicolegal officer/forensic pathologist have independence and autonomy to include all relevant evidence in an autopsy report without pressure or influence from others in the police department.²⁰¹ After the autopsy report is completed and signed it should be submitted to the head of the MLDI authority.

Peer Review of autopsy findings is an important tool to ensure quality reports and provide a vehicle for peer education. Peer review may involve both informal peer review in the mortuary and formal auditing of a set number of cases. Informal peer review involves a daily meeting of pathologists to discuss cases before a report is finalized and signed-out. Informal peer review is particularly important for criminal or criminally

¹⁹⁹ Dolinak, Matshes, & Lew. *Forensic Pathology: Principles and Practice*, Elsevier Academic Press, 2005, p.1.

²⁰⁰ Dolinak, Matshes, & Lew. *Forensic Pathology: Principles and Practice*, Elsevier Academic Press, 2005, p.69

²⁰¹ See *Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, United Nations, 2004, at paragraphs 66 – 73, available at: <https://phr.org/issues/istanbul-protocol/>

suspicious cases, deaths in custody, pediatric and high-profile cases,²⁰² as this helps ensure there is general agreement on the provisional cause of death.²⁰³ Formal peer review involves a retrospective review by a second pathologist on a randomly selected, set proportion of all completed routine medicolegal cases. The reviewing pathologist does not necessarily have to completely agree with the conclusions, but must accept that they are reasonable with no obvious errors of fact.²⁰⁴ Formal and informal review are important for continuous quality improvement.

Guidance: Describe any requirements in the legal framework regarding completion of an autopsy/external examination report, and any peer review process. In the comment section, analyze whether the legal framework helps ensure complete and high-quality information regarding the cause and manner of death and whether opportunity for regulatory reform exists.

- a. **Describe any requirements in the legal framework regarding completion of an autopsy/external examination report.** Specifically note who is required to complete and sign the report (i.e., the medical professional who conducted the examination or the head of the office or both). Describe the contents of the report (this is usually contained in SOPs).

Citation:

Comment:

- b. **Describe any process for peer review of autopsy/external exam findings.** (Note: You may need to discuss this with the head of the MLDI authority, as peer review procedures likely will be found in SOPs or office manuals, rather than law).

Citation:

Comment:

12. Powers of medical examiner/coroner to investigate

Good Practice: As stated above, a medicolegal death investigation is not merely a matter of autopsy performance (or external examination) and determination of cause and manner of death. A proper medicolegal death investigation includes documentation of the scene and circumstances,²⁰⁵ because the ability of forensic pathologists to interpret autopsy findings depends on the context of the investigation. Therefore, it is important that the law mandate cooperation between the police and coroners, medical examiners, and other forensic pathologists investigating a death. The law should also provide coroners and medical examiners (and their designees) certain powers to investigate.

In a medical examiner or coroner system, the law should define the roles of law enforcement and the coroner/medical examiner with regard to the death scene. Law enforcement should have jurisdiction over the crime scene; while the coroner/medical examiner (or their designee) should have jurisdiction over the body itself. In coroner and medical examiner systems, the law should, at a minimum: 1) require the police

²⁰² Obenson, K., *The value of 100% retrospective peer review in a forensic pathology practice*, Journal of Forensic and Legal Medicine, Volume 20, Issue 8, November 2013, Pages 1066-1068.

²⁰³ Sims, D.N. et. al, *An approach to peer review in forensic pathology*, Journal of Forensic and Legal Medicine 20 (2013), pp. 402-403.

²⁰⁴ Sims, D.N. et. al, *An approach to peer review in forensic pathology*, Journal of Forensic and Legal Medicine 20 (2013), pp. 402-403.

²⁰⁵ Dolinak, Matshes, & Lew. *Forensic Pathology: Principles and Practice*, Elsevier Academic Press, 2005, p.1.

to give timely notice of a death to the coroner/medical examiner,²⁰⁶ and 2) make clear that the coroner/medical examiner (or their designee) has the unquestioned authority to enter crime scenes secured by law enforcement for purposes of their death investigation.²⁰⁷ The law should also specify that the body of the decedent shall not be disturbed unless the medical examiner/coroner (or their designee) gives permission to do so²⁰⁸, and permit the medical examiner/coroner to take pictures and other evidence relevant to the body. Because both the coroner/medical examiner (or their designee) and the police may both collect evidence at the death scene, there should be a duty between these entities to share relevant evidence. For example, the New Zealand Coroners Act requires the Commissioner of Police to “cause to be made all investigations . . . directed by the responsible coroner.”²⁰⁹

In addition, medical examiners and coroners should have subpoena power in defined circumstances, including the power to subpoena medical records and other relevant information from healthcare workers, and the power to administer oaths and take affidavits. These powers are inherent in the common law power of coroners and the judicial powers of magistrates, and should also be afforded to medical examiners, as this helps provide the coroner/medical examiner a complete picture of the circumstances surrounding the death.²¹⁰

In a law enforcement-led system with an internal medicolegal division, there should be a similar mandate to cooperation with forensic pathologists working with the police and prosecutor – whether located within government or contracted from an outside entity - so that the forensic pathologist has access to the necessary evidence and information.

Finally, not all death scenes are crime scenes. For example, in cases of death due to suicide, accidental overdose, or injury, there may be a police officer on the scene, but not a homicide or criminal investigator. In these circumstances, in a coroner or medical examiner system, the medical examiner or coroner might lead the investigation rather than police.

Guidance: The questions below address required cooperation between entities and powers to investigate. These requirements and powers may be found in law and regulations, with more specifics in MOUs. In the comment sections, note any barriers to cooperation and any provisions that may prevent the medical examiner/coroner or medicolegal officer/outside pathologist from gathering necessary scene information or understanding the full circumstances.

-
- a. Describe any general duty of cooperation between investigative law enforcement and the medical examiner/coroner (or their designee), or the forensic pathologist working with law enforcement (whether internal or external to the system).

Citation:

Comment:

- b. Describe the powers to investigate of medical examiners, coroners or the forensic pathologist working with law enforcement (whether internal or external to the system) at the crime scene.

Address:

- i. power to enter a crime scene
- ii. authority to take custody of the body

²⁰⁶ See New Zealand Coroners Act, 2006, Section 18(2) (requiring police to notify coroner “as soon as practicable”).

²⁰⁷ Weedn, V.W., Model Medical Examiner Legislation, *Academic Forensic Pathology* 2015 5(4), p. 622. See also Code of the District of Columbia, Title 5, Chapter 14, §5-1406 (giving the Chief Medical Examiner authority to respond to the scene of the death); Fatalities Investigation Act (Alberta, Canada), Chapter F-6.1, Section 9.

²⁰⁸ See Code of the District of Columbia, Title 5, Chapter 14, §5-1406 (providing that body shall not be disturbed unless CME grants permission to do so); Fatalities Investigation Act (Alberta, Canada), Chapter F-6.1, Section 12.

²⁰⁹ New Zealand Coroners Act, 2006, Section 17(1).

²¹⁰ Weedn, V.W., Model Medical Examiner Legislation, *Academic Forensic Pathology* 2015 5(4), p. 622.

- iii. power to prevent tampering with the body and related evidence
- iv. power to collect evidence, including taking pictures

Citation:

Comment:

c. Describe the subpoena powers of the medical examiner or coroner.

Citation:

Comment:

d. Describe the powers of the medical examiner/coroner (or their designee) at a death scene that is not a crime scene (e.g., suicide, accidental overdose or injury).

Citation:

Comments:

13. Medical Certificate of Cause of Death (MCCD)

Best Practice: As a component of the medicolegal death investigation, the medical examiner or other authorized physician (e.g., physician authorized by the coroner or police/prosecutor) conducting the forensic evaluation must certify the cause of death and manner of death. The WHO International Medical Certificate of Cause of Death form (MCCD), which includes structured sections for reporting immediate, antecedent and underlying causes of death and manner of death, should be used. Because certification of cause and manner of death is the practice of medicine, the MCCD must be completed by a qualified physician. The MCCD may be a separate document from the autopsy report or a component of it.

Cause of death (COD) is “all those diseases, morbid conditions or injuries which either resulted in or contributed to death and the circumstances of the accident or violence which produced such injuries.”²¹¹ Medical examiners/authorized physicians should follow the WHO MCCD reporting guidelines, presenting etiologically specific causes of death in the appropriate chronological and pathological sequence. This information is pertinent in the medicolegal death investigation and to inform policy for public health purposes.

The WHO recommended international MCCD form includes both COD and MOD sections for completion by a physician certifier. It is important that the manner of death, and not just the cause of death, be completed on the MCCD form. “Manner of death” (MOD) explains the circumstances in which a death arose. The International Classification of Diseases (ICD) classifies manner of death as disease, accident, intentional self-harm, assault, legal intervention, war, pending investigation, unknown, or “manner undetermined.” The WHO allows countries to modify the MCCD form and, in the case of the US, the classification of manner of death is simplified to only six categories which reflect the nine categories

²¹¹ World Health Organization, *International Classification of Diseases, 2016, volume 2*; See also *Health Topics*, World Health Organization website, available at: https://www.who.int/bulletin/volumes/84/3/mortality_glossary/en/

proposed in the WHO recommended form. The standard form recommended for use in the US classify manner as natural, accident, suicide, homicide, pending investigation, or “could not be determined.” Manner of death should be determined by the medical examiner/authorized physician to the best of their ability, even if the manner is “undetermined”. The WHO MCCD form and the modified US standard form are attached as Annex A to this module).

In some countries, the physician conducting the forensic examination is limited to only reporting COD and the police or prosecutor are responsible for reporting manner of death. This is not good practice for two reasons. First, the manner of death determined by the forensic investigation and certified on the MCCD serves purposes beyond those of just law enforcement; the MOD assists in clarifying the circumstances of death for public health and public safety purposes. Second, the manner of death determined by the medical examiner (e.g., homicide) has a different standard from MOD determined in legal proceedings (e.g., murder), and the two should not be confused. *Homicide, as a manner of death on the MCCD, is a statistical category for this public health document. For purposes of the forensic examination, a homicide is defined as death “at the hand of another”. It is not synonymous with “murder,” which is a legal term that involves intent. It is ultimately up to the legal system to determine how a death is criminally classified under law.*²¹² While the MCCD (and autopsy findings) may be submitted as evidence in a legal proceeding, the MOD on the MCCD is a medical opinion, not a legally binding opinion. Accordingly, the MOD determined by the medical examiner is *not* changed based on the MOD determined in subsequent legal proceedings.

Guidance: Answer the questions below regarding certification of cause and manner of death. In the comment sections, note any gaps in the laws and opportunities for regulatory reform.

- a. **Describe who is authorized or required to certify cause of death in a MLDI case** (we are not concerned with natural deaths in this module). Pay attention to whether the certifier must be a qualified physician.

Citation:

Comment:

- b. **Is the certifier in a medicolegal death case required to complete the *manner of death*, as well as cause of death?**

Citation:

Comment:

- c. **Is the WHO MCCD, or variation of it, the required form for certification of cause and manner of death in an MLDI case?** If the WHO MCCD form has been modified, does the form used by the MLDI system include the cause of death standard table (with parts I & II) and list manners of death that align with those on the WHO MCCD form?

Citation:

Comment:

²¹² NOLO website, Legal Articles, *What is Murder? Is Murder Different from Homicide?*, available at: <https://www.nolo.com/legal-encyclopedia/homicide-murder-manslaughter-32637.html>

14. Connection to the CRVS system: Death Registration and Statistics

Good Practice: As with other deaths, deaths that go to the MLDI system must be registered with the civil registration authority. In addition, the cause and manner of death information (from the MCCD) must be coded in accordance with the ICD and submitted to the national statistics authority. In general, the following steps happen to accomplish death registration and vital statistics generation, but the order of the steps may vary from country to country:

Submission to Civil Registrar: In most countries, the MLDI authority is responsible for submitting the MCCD form, and any other required information, to the civil registration authority. This serves to notify the death for registration purposes and provide legal COD information.²¹³ Some countries, such as Morocco, use a bifurcated form containing a section for personal information and a section for cause and manner of death information. With this type of form, the MLDI authority submits the personal information section of the form to the Registrar to notify the death, and submits the cause and manner of death information section of the form to the national statistics agency.²¹⁴ Timeframes for submission to the civil registrar are usually around 3 days, but vary from country to country.

Coding: After completion of the MCCD by the MLDI authority, the MCCD is shared with a mortality coding unit, which will code the MCCD according to the ICD. The location of the coding unit varies across countries; however, it is usually part of the civil registration authority, health authority, or statistics authority. Because timeframes for MCCD submission are usually short (around 3 days) and autopsies may take longer than this, it is acceptable and not unusual for an MCCD to be submitted to the coding authority with a “pending” cause and/or manner of death. The coding unit will follow up with the medical examiner/authorized physician to resolve pending cases and other data quality issues limiting final coding of the MCCD form.

Submission to National Statistics Authority: Cause and manner of death information from medicolegal death investigations is essential for public health policy and planning. Therefore, anonymized MCCD information must be shared with the national authority responsible for compiling cause of death statistics. The pathway by which the MCCD information reaches the national statistics authority varies across countries. For example, in countries where the MLDI authority submits the MCCD to the civil registration authority, the civil registration authority is responsible for submitting anonymized MCCD information to the national statistics authority. In countries that use a bifurcated form, the MLDI authority is responsible for submitting the cause and manner of death section of the form to the national statistics agency.

Cause and manner of death data may also be shared with other agencies responsible for compilation of statistics on medicolegal deaths, such as law enforcement or the public health authority, which use this data for their own purposes and health interventions. However, reporting to other agencies should not replace reporting to the agency responsible for generating national cause of death statistics.

Process: The pathway by which the MCCD information reaches the coding authority, civil registration authority and national statistics authority varies across countries, depending on whether a single (non-bifurcated) form or bifurcated form is used and where the coding authority sits. Countries that are reviewing their MLDI laws are encouraged to undertake a business process mapping exercise in order to determine whether there is opportunity to improve the process.²¹⁵

²¹³ United Nations, *Guidelines on the Legislative Framework for Civil Registration, Vital Statistics and Identity Management*, January 2019, paragraph 352.

²¹⁴ United Nations, *Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems*, New York, 2019, Para. 327.

²¹⁵ For more information on business process mapping, see: Cobos Muñoz et al., *Better data for better outcomes: the importance of process mapping and management in CRVS systems*, BMC Medicine, 18:67, 2020.

Timeframes: The legal framework should clearly state required time frames within which: 1) the MLDI authority must submit MCCD information to the civil registrar, and 2) the civil registrar must submit MCCD information to the national statistics authority. For countries that use a bifurcated form, the legal framework should clearly state the timeframe within which the MLDI authority must submit the top portion of the form to the civil registrar and the timeframe in which the bottom portion must be submitted to the national statistics agency.

Amendments and corrections: The law should permit and have a process for the MLDI authority to amend COD and/or MOD information with the Registrar's office after an original MCCD has been submitted.²¹⁶ Amendment would be needed if an MCCD was submitted to the Registrar with a "pending" cause of death, manner of death, or both. Amendment may also be needed to change a COD/MOD if further investigation reveals new facts. In addition, in some instances, there may be a need to update name and demographic information; for instance, in the case of a previously unidentified or misidentified person.

Guidance: Answer the questions below regarding submission of the MCCD to the civil registration, national statistics and coding authorities, and any amendment process. In the comments section, analyze whether there are any gaps in the system and whether all medicolegal deaths reach the registrar and national statistics agency or whether some might fail to be reported and captured in official MLDI statistics.

- a. **Describe the process by which the MLDI authority submits an MCCD to the civil registration authority, including any time requirement for reporting.**

Citation:

Comment:

- b. **Is there a process for a medical examiner/coroner/medicolegal officer to amend a MCCD after submission of an original MCCD to the civil registration authority? If yes,**
- i. Describe the process.
 - ii. Can COD and MOD be amended?
 - iii. Can name and demographic information be amended?

Citation:

Comment:

- c. **Describe the process by which MCCD information is shared with the national statistics authority, including any time requirements for reporting and requirements to anonymize. Note whether there is a process to submit amended cause and manner of death information to the national statistics authority after the official deadline, and whether this amended information is included in updated national statistics.**

Citation:

Comment:

²¹⁶ See *Medical Examiners and Coroners' Handbook on Death Registration and Foetal Death Reporting*, page 6 (requiring medical examiner/coroner to deliver a supplemental report of cause of death to the State vital statistics office when autopsy findings or further investigation reveals the cause of death to be different from what was originally reported.)

15. Time Limits on Investigation

Good Practice: MLDI authorities should strive to complete medicolegal death investigations within a reasonable timeframe. Standard timeframes for completion of investigation vary by country. The National Association of Medical Examiners (U.S) encourages medical examiners to strive to complete 90% of autopsies within 90 days. However, complex cases may take more time and the medical examiner/pathologist should have the right to revise a cause or manner of death if additional information becomes available.

Some laws define a timeline for completion of the investigation and/or mechanisms to foster timely completion. For example, in the United Kingdom and New Zealand, investigations must generally be completed within one year. If a coroner has not completed an investigation within one year, the Chief Coroner must monitor the case.²¹⁷

Guidance: Answer the questions below regarding time limits on medicolegal death investigations. Time limits may be found in law or SOPs. In the comments section, state any observations about the time required to complete an investigation, by law and in practice.

- a. Describe whether the legal framework requires a medicolegal death investigation to be completed within a certain amount of time.

Citation:

Comment:

- b. If time limits exist, are there exceptions to the time limits?

Citation:

Comment:

- c. Describe any actions that must be taken if an investigation is not completed within prescribed time limits:

Citation:

Comments:

16. Mass Fatality Management

Good Practice: Traditionally, a mass fatality has been defined as any incident resulting in more decedents to be recovered and examined than can be managed in the local Medical Examiner/Coroner/police jurisdiction. More recently, the definition has been shifting to include any incident that results in or has the

²¹⁷ U.K. Coroners and Justice Act 2009, Sec. 16; New Zealand Coroners Act 2006, Sec. 94A.

potential to result in the death of a certain number of individuals.²¹⁸ A mass fatality may be due to a natural event (e.g., cyclone, earthquake, flood) or a man-made event (e.g. terrorism, stampede). A mass fatality might also be due to natural causes, such as a pandemic.

In a mass fatality, as with other medicolegal deaths, the MLDI authority is responsible for the medicolegal investigation of the incident. A mass fatality incident does not diminish this responsibility. The identification of the deceased and the official certification of cause and manner of death are the sole responsibility of the MLDI authority in the jurisdiction in which the disaster occurs.²¹⁹ However, additional assistance from other organizations and agencies may be needed during a mass fatality incident.

To balance the need to maintain data quality but also meet the overwhelming demand, the law should authorize or mandate the head of the MLDI authority to develop a mass fatality management response plan in close collaboration with the health authority, disaster management authority, and other relevant government authorities.²²⁰ Such a plan is usually set out in SOPs, rather than law. The law should also authorize the Chief Medical Examiner/Chief Coroner to enter into agreements with, or request additional assistance from, other entities in the event of a mass fatality.²²¹ The District of Columbia law establishing the medical examiner office provides a good example of legal provisions that enable the head of the MLDI authority to respond effectively to disasters. The provisions in the D.C. law covering mass fatality management can be found here: <https://code.dccouncil.us/dc/council/code/sections/5-1406.01.html>

Guidance: Answer the questions below regarding procedures in the event of a mass fatality. In the comments section, analyze whether the law enables an effective response to mass fatalities.

- a. Describe any specific provisions in the legal framework that address procedures in the event of a mass fatality.

Citation:

Comments:

- b. Does the law authorize or mandate the head of the MLDI authority to develop a mass fatality response plan, or to take part in another agency's planning process?

Citation:

Comment:

- c. Does the head of the MLDI authority have power to enter into agreements with, or request additional assistance from, other agencies in the event of a mass fatality?

Citation:

Comments:

17. Resources

Good practice: Adequate financial resources, facilities and equipment are necessary to ensure that findings

²¹⁸ National Association of Medical Examiners, *Standard Operating Procedures for Mass Fatality Management*, 2010, p.3.

²¹⁹ National Association of Medical Examiners, *Standard Operating Procedures for Mass Fatality Management*, 2010, p.33.

²²⁰ See, e.g., Code of District of Columbia, Title 5, Chapter 14, Chief Medical Examiner, §5-1406.1.

²²¹ National Association of Medical Examiners, *Standard Operating Procedures for Mass Fatality Management*, 2010, p.3; see, e.g., Code of District of Columbia, Title 5, Chapter 14, Chief Medical Examiner, §5-1406.1.

and results of medicolegal death investigations are accurate, complete and timely. Therefore, the legal framework should include provisions to ensure sustainable funding of the MLDI authority through national or sub-national budgets. In addition, any revenue generated from MLDI authority services should be retained to fund the authority rather than going to the central treasury (if permitted under the country's legal frameworks and governance structure).

Resources include more than just funding and different legal frameworks ensure adequate resources in different ways. For example, the UK Coroners and Justice Act 2009 requires local public health authorities to "make available enough funds and other resources, to enable those [medical examiner] functions to be discharged in its area", and requires "relevant authorities" to "secure the provision of whatever officers and other staff are needed by the coroners for that area to carry out their functions" as well as providing or ensuring accommodation.²²² The Code for the District of Columbia (in the U.S) requires the Mayor to "provide such facilities and equipment, as the OCME (Office of the Chief Medical Examiner) shall require".²²³

Guidance: Answer the questions regarding committed funding and other resources for MLDI functions and services. In the comments section, analyze whether the law guarantees sufficient financial and other resources to ensure high quality results and findings from the MLDI authority.

- a. Describe any legal provisions regarding committed funding and/or other resources (e.g. staff, facilities, equipment) for the MLDI authority.

Citation:

Comments:

18. Training

Good Practice: All staff within the MDLI authority – including medical examiners, coroners, forensic pathologists, other forensic specialists, and medicolegal death investigators - must be trained and periodically retrained in their specific area of practice and the relevant technical skills and methods necessary to conduct a quality medicolegal death investigation. To this end, continuing medical education courses in forensic pathology and other areas of forensics should be required, or at a minimum available, to medical professionals in the MLDI system; and continuing education courses on investigation techniques and forensics should be available to medicolegal death investigators.

To improve the quality of cause of death of information, medical examiners and forensic pathologists must also be trained in medical certification of cause of death and correct completion of the WHO MCCD standard form. To this end, medical certification of cause of death should be included in mandatory curricula for all medical students and in post-graduate medical education and professional in-service trainings.²²⁴ In addition, well-trained coders applying ICD coding rules and principles are essential to the production of high-quality mortality data. Therefore, it is recommended that a dedicated ICD-coder cadre be created, funded, and adequately trained and re-trained.²²⁵

Guidance: Answer the questions below regarding education and training of medical students, physicians, forensic pathologists and other forensic specialists, and coders. Note that requirements related to training

²²² UK Coroner's and Justice Act 2009, §§ 19(2), 24

²²³ Code of the District of Columbia, Title 5, Chapter 14, §5-1403

²²⁴ World Health Organization, Strengthening Civil Registration and Vital Statistics for Births, Deaths, and Causes of Death, Resource Kit, 2012, Module 4.

²²⁵ World Health Organization, Strengthening Civil Registration and Vital Statistics for Births, Deaths, and Causes of Death, Resource Kit, 2012, Modules 4, 5.

for medical students are likely to be contained in the rules related to the curricula of medical schools. Requirements related to post-graduate continuing medical education requirements might be found in the rules of the country's medical association or other professional associations that accredits and licenses medical or forensic professionals). In the comment section, describe whether the law aligns with best practice and note any recommendations for regulatory reform.

- a. **Describe the legal framework related to continuing medical education for medical examiners, forensic pathologists and other forensic medical professionals in the MLDI system.** Indicate whether continuing medical education is required for licensure, optional, or available.

Citation:

Comment:

- b. **Describe the legal framework related to training for other staff within the MDLI authority** (such as medicolegal death investigators and forensic technicians).

Citation:

Comments:

- c. **Is training during medical school in medical certification of cause of death required? optional? available?**

Citation:

Comments:

- d. **Is continuing medical education in medical certification of COD for medical examiners and other medical professionals in the MLDI system required? optional? available?**

Citation:

Comments:

- e. **Is a training program established for ICD coders?**

Citation:

Comments:

19. Supervision and Enforcement

Best Practice: High-quality cause and manner of death of information in MLDI cases can only be achieved if medicolegal professionals comply with laws, SOPs and other guidance. A system of supportive supervision by the head of the MLDI authority -with reporting, monitoring, and feedback – should be in place to

ensure that staff within the medicolegal authority perform their jobs to the best of their ability.

However, for those that intentionally or negligently fail to comply with their duties, the law should contain mechanisms to enforce compliance, including warnings, sanctions, and civil or criminal penalties. Medical examiners, coroners, medicolegal police officers and contractual medicolegal experts should be subject to penalties for failure or refusal, without reasonable excuse, to submit a post-mortem report or investigation report in compliance with law. Members of the public should be subject to penalties for failure or refusal to comply with requests for information, warrants or subpoenas; intentionally providing false or misleading information; and interference with an investigation or crime scene. There should also be penalties for dissemination of information that was restricted due to an ongoing investigation.²²⁶

In addition, civil servants, medical examiners, coroners, and police may be subject to disciplinary action under civil service laws for failure to carry out duties. Medical professionals may be subject to sanctions or license suspension or revocation for failure to comply with professional standards.

Guidance: Answer the questions below regarding supervision of MLDI authority staff, and penalties for lack of compliance. For medical examiners, coroners, and police be sure to analyze civil service laws and rules of professional associations, in addition to penalties contained in civil and criminal laws. State clearly who is subject to each kind of penalty. In the comments sections, analyze whether there are any gaps in the enforcement scheme; i.e. does the law adequately compel compliance?

- a. Describe any provisions in the legal framework regarding supportive supervision of staff in the medicolegal authority.

Citation:

Comment:

- b. Describe provisions in the legal framework that enforce compliance by:
- i. Medical examiners, coroners, and police/medicolegal officers (and their staff and contractors):

Citation:

Comment:

- ii. Members of the public:

Citation:

Comment:

Annex A – WHO MCCD Form & US Standard MCCD Form

International form of medical certificate of cause of death (WHO 2016)

Administrative Data (can be further specified by country)

²²⁶ See, e.g., New Zealand Coroners Act 2006, Sections 134- 139A.

Sex	<input type="checkbox"/> Female				<input type="checkbox"/> Male				<input type="checkbox"/> Unknown								
Date of birth	D	D	M	M	Y	Y	Y	Y	Date of death	D	D	M	M	Y	Y	Y	Y
Frame A: Medical data: Part 1 and 2																	
1 Report disease or condition directly leading to death on line a Report chain of events in due to order (if applicable) State the underlying cause on the lowest used line			Cause of death	Time interval from onset to death													
		a															
		b	Due to:														
		c	Due to:														
		d	Due to:														
2 Other significant conditions contributing to death (time intervals can be included in brackets after the condition)																	
Frame B: Other medical data																	
Was surgery performed within the last 4 weeks?								<input type="checkbox"/> Yes		<input type="checkbox"/> No		<input type="checkbox"/> Unknown					
If yes please specify date of surgery								D	D	M	M	Y	Y	Y	Y		
If yes please specify reason for surgery (disease or condition)																	
Was an autopsy requested?								<input type="checkbox"/> Yes		<input type="checkbox"/> No		<input type="checkbox"/> Unknown					
If yes were the findings used in the certification?								<input type="checkbox"/> Yes		<input type="checkbox"/> No		<input type="checkbox"/> Unknown					
Manner of death:																	
<input type="checkbox"/> Disease				<input type="checkbox"/> Assault				<input type="checkbox"/> Could not be determined									
<input type="checkbox"/> Accident				<input type="checkbox"/> Legal intervention				<input type="checkbox"/> Pending investigation									
<input type="checkbox"/> Intentional self harm				<input type="checkbox"/> War				<input type="checkbox"/> Unknown									
If external cause or poisoning:								Date of injury		D	D	M	M	Y	Y	Y	Y
Please describe how external cause occurred (If poisoning please specify poisoning agent)																	
Place of occurrence of the external cause:																	
<input type="checkbox"/> At home			<input type="checkbox"/> Residential institution			<input type="checkbox"/> School, other institution, public administrative area				<input type="checkbox"/> Sports and athletics area							
<input type="checkbox"/> Street and highway			<input type="checkbox"/> Trade and service area			<input type="checkbox"/> Industrial and construction area				<input type="checkbox"/> Farm							
<input type="checkbox"/> Other place (please specify):								<input type="checkbox"/> Unknown									
Fetal or infant Death																	
Multiple pregnancy								<input type="checkbox"/> Yes		<input type="checkbox"/> No		<input type="checkbox"/> Unknown					
Stillborn?								<input type="checkbox"/> Yes		<input type="checkbox"/> No		<input type="checkbox"/> Unknown					
If death within 24h specify number of hours survived										Birth weight (in grams)							

Number of completed weeks of pregnancy			Age of mother (years)		
If death was perinatal, please state conditions of mother that affected the fetus and newborn					
For women, was the deceased pregnant?		<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	
<input type="checkbox"/> At time of death		<input type="checkbox"/> Within 42 days before the death			
<input type="checkbox"/> Between 43 days up to 1 year before death		<input type="checkbox"/> Unknown			
Did the pregnancy contribute to the death?		<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	

U.S. STANDARD CERTIFICATE OF DEATH

LOCAL FILE NO.

STATE FILE NO.

NAME OF DECEDENT
For use by physician or institution

1. DECEDENT'S LEGAL NAME (Include AKA's if any) (First, Middle, Last)		2. SEX	3. SOCIAL SECURITY NUMBER	
4a. AGE-Last Birthday (Years)	4b. UNDER 1 YEAR	4c. UNDER 1 DAY		5. DATE OF BIRTH (Mo/Day/Yr)
	Months	Days	Hours	
6. BIRTHPLACE (City and State or Foreign Country)				
7a. RESIDENCE-STATE		7b. COUNTY		7c. CITY OR TOWN
7d. STREET AND NUMBER		7e. APT. NO.	7f. ZIP CODE	7g. INSIDE CITY LIMITS? <input type="checkbox"/> Yes <input type="checkbox"/> No
8. EVER IN US ARMED FORCES? <input type="checkbox"/> Yes <input type="checkbox"/> No		9. MARITAL STATUS AT TIME OF DEATH <input type="checkbox"/> Married <input type="checkbox"/> Married, but separated <input type="checkbox"/> Widowed <input type="checkbox"/> Divorced <input type="checkbox"/> Never Married <input type="checkbox"/> Unknown		10. SURVIVING SPOUSE'S NAME (If wife, give name prior to first marriage)
11. FATHER'S NAME (First, Middle, Last)			12. MOTHER'S NAME PRIOR TO FIRST MARRIAGE (First, Middle, Last)	
13a. INFORMANT'S NAME		13b. RELATIONSHIP TO DECEDENT		13c. MAILING ADDRESS (Street and Number, City, State, Zip Code)
14. PLACE OF DEATH (Check only one: see instructions)				
IF DEATH OCCURRED IN A HOSPITAL: <input type="checkbox"/> Inpatient <input type="checkbox"/> Emergency Room/Outpatient <input type="checkbox"/> Dead on Arrival			IF DEATH OCCURRED SOMEWHERE OTHER THAN A HOSPITAL: <input type="checkbox"/> Hospice facility <input type="checkbox"/> Nursing home/Long term care facility <input type="checkbox"/> Decedent's home <input type="checkbox"/> Other (Specify):	
15. FACILITY NAME (if not institution, give street & number)			16. CITY OR TOWN, STATE, AND ZIP CODE	
17. COUNTY OF DEATH				
18. METHOD OF DISPOSITION: <input type="checkbox"/> Burial <input type="checkbox"/> Cremation <input type="checkbox"/> Donation <input type="checkbox"/> Entombment <input type="checkbox"/> Removal from State <input type="checkbox"/> Other (Specify):		19. PLACE OF DISPOSITION (Name of cemetery, crematory, other place)		
20. LOCATION-CITY, TOWN, AND STATE		21. NAME AND COMPLETE ADDRESS OF FUNERAL FACILITY		
22. SIGNATURE OF FUNERAL SERVICE LICENSEE OR OTHER AGENT				23. LICENSE NUMBER (Of Licensee)

ITEMS 24-28 MUST BE COMPLETED BY PERSON WHO PRONOUNCES OR CERTIFIES DEATH		24. DATE PRONOUNCED DEAD (Mo/Day/Yr)	25. TIME PRONOUNCED DEAD
26. SIGNATURE OF PERSON PRONOUNCING DEATH (Only when applicable)		27. LICENSE NUMBER	28. DATE SIGNED (Mo/Day/Yr)
29. ACTUAL OR PRESUMED DATE OF DEATH (Mo/Day/Yr) (Spell Month)		30. ACTUAL OR PRESUMED TIME OF DEATH	31. WAS MEDICAL EXAMINER OR CORONER CONTACTED? <input type="checkbox"/> Yes <input type="checkbox"/> No

CAUSE OF DEATH (See instructions and examples)			Approximate interval: Onset to death
32. PART I. Enter the <u>chain of events</u> --diseases, injuries, or complications--that directly caused the death. DO NOT enter terminal events such as cardiac arrest, respiratory arrest, or ventricular fibrillation without showing the etiology. DO NOT ABBREVIATE. Enter only one cause on a line. Add additional lines if necessary.			
IMMEDIATE CAUSE (Final disease or condition -----> resulting in death)	a. _____	Due to (or as a consequence of):	
Sequentially list conditions, if any, leading to the cause listed on line a. Enter the UNDERLYING CAUSE (disease or injury that initiated the events resulting in death) LAST	b. _____	Due to (or as a consequence of):	
	c. _____	Due to (or as a consequence of):	
	d. _____	Due to (or as a consequence of):	

PART II. Enter other <u>significant conditions contributing to death</u> but not resulting in the underlying cause given in PART I		33. WAS AN AUTOPSY PERFORMED? <input type="checkbox"/> Yes <input type="checkbox"/> No
		34. WERE AUTOPSY FINDINGS AVAILABLE TO COMPLETE THE CAUSE OF DEATH? <input type="checkbox"/> Yes <input type="checkbox"/> No

35. DID TOBACCO USE CONTRIBUTE TO DEATH? <input type="checkbox"/> Yes <input type="checkbox"/> Probably <input type="checkbox"/> No <input type="checkbox"/> Unknown	36. IF FEMALE: <input type="checkbox"/> Not pregnant within past year <input type="checkbox"/> Pregnant at time of death <input type="checkbox"/> Not pregnant, but pregnant within 42 days of death <input type="checkbox"/> Not pregnant, but pregnant 43 days to 1 year before death <input type="checkbox"/> Unknown if pregnant within the past year	37. MANNER OF DEATH <input type="checkbox"/> Natural <input type="checkbox"/> Homicide <input type="checkbox"/> Accident <input type="checkbox"/> Pending Investigation <input type="checkbox"/> Suicide <input type="checkbox"/> Could not be determined
--	--	--

38. DATE OF INJURY (Mo/Day/Yr) (Spell Month)	39. TIME OF INJURY	40. PLACE OF INJURY (e.g., Decedent's home; construction site; restaurant; wooded area)	41. INJURY AT WORK? <input type="checkbox"/> Yes <input type="checkbox"/> No
--	--------------------	---	---

42. LOCATION OF INJURY: State: _____ City or Town: _____		Apartment No.: _____ Zip Code: _____
43. DESCRIBE HOW INJURY OCCURRED:		44. IF TRANSPORTATION INJURY, SPECIFY: <input type="checkbox"/> Driver/Operator <input type="checkbox"/> Passenger <input type="checkbox"/> Pedestrian <input type="checkbox"/> Other (Specify)

45. CERTIFIER (Check only one):

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Certifying physician-To the best of my knowledge, death occurred due to the cause(s) and manner stated.

Pronouncing & Certifying physician-To the best of my knowledge, death occurred at the time, date, and place, and due to the cause(s) and manner stated.

Medical Examiner/Coroner-On the basis of examination, and/or investigation, in my opinion, death occurred at the time, date, and place, and due to the cause(s) and manner stated.

Signature of certifier: _____

To Be Completed By: MEDICAL CERTIFIER

Annex B – Resources

Suggested Reading

General MLDI information

Dr. Judy Melinek, *A Forensic Primer for Journalists*, Forensic Pathology Forum, January 9, 2015, available at: <http://pathologyexpert.blogspot.com/2015/01/a-forensic-primer-for-journalists.html?m=1>

National Academy of Sciences, *Medicolegal Death Investigation System: Workshop Summary*, 2003, available at: <https://www.nap.edu/catalog/10792/medicolegal-death-investigation-system-workshop-summary>

Weedn, V.W., *Model Medical Examiner Legislation*, Academic Forensic Pathology 2015 5(4), pps 618-620, available at: <https://journals.sagepub.com/doi/10.23907/2015.065>

Ethics and Independence

Melinek, J., et. Al, *National Association of Medical Examiners Position Paper: Medical Examiner, Coroner, and Forensic Pathologist Independence*, NAME Position Papers, Volume 3, Issue 1, pp. 93- 98.

International Association of Coroners and Medical Examiners Code of Ethics, available at: <https://theiacme.com/page/Ethics>.

Deaths in Custody

Minnesota Protocol on the Investigation of Potentially Unlawful Death, United Nations, Office of the High Commissioner on Human Rights (2016), available at: <https://www.ohchr.org/EN/Issues/Executions/Pages/RevisionoftheUNManualPreventionExtraLegalArbitrarily.aspx>

Mitchell, R. et. al, *National Association of Medical Examiners Position Paper: Recommendations for the Definition, Investigation, Postmortem Examination, and Reporting of Deaths in Custody*, Academic Forensic Pathology, 2017 7(4): 604-618

Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, United Nations, 2004, available at: <https://phr.org/issues/istanbul-protocol/>

Inquests

Paul, MacMahon, *The Inquest and the Virtues of Soft Adjudication*, 33 Yale Law & Policy Review 275 (2015) available at: <https://ylpr.yale.edu/inquest-and-virtues-soft-adjudication>

Peer Review Process

Obenson, K., *The value of 100% retrospective peer review in a forensic pathology practice*, Journal of Forensic and Legal Medicine, Volume 20, Issue 8, November 2013, Pages 1066-1068, available at: <https://pubmed.ncbi.nlm.nih.gov/24237821/>

Sims, D.N. et. al, *An approach to peer review in forensic pathology*, Journal of Forensic and Legal Medicine, 20 (2013), pp. 402-403, available at: <https://pubmed.ncbi.nlm.nih.gov/23756506/>

Business Process Mapping

Cobos Muñoz et al., *Better data for better outcomes: the importance of process mapping and management in CRVS systems*, BMC Medicine, 18:67, 2020.

Example Laws

Coroner Laws

New Zealand Coroners Act 2006: <http://www.legislation.govt.nz/act/public/2006/0038/latest/whole.html>

U.K. Coroners and Justice Act 2009:

<http://www.legislation.gov.uk/ukpga/2009/25/contents>

Medical Examiner Laws

Code of the District of Columbia, Title 5, Chapter 14, Chief Medical Examiner:

<https://code.dccouncil.us/dc/council/code/titles/5/chapters/14/>

Alberta Canada, Fatalities Investigations Act, Chapter F-6.1, available at:

<https://www.assembly.nl.ca/legislation/sr/statutes/f06-1.htm>

Model MLDI legislation

National Commission on Forensic Science, *Recommendation to the Attorney General Model Legislation for Medicolegal Death Investigation Systems*, January, 2017, available at:

<https://search.justice.gov/search?query=Recommendation+to+the+Attorney+General+Model+Legislation+for+Medicolegal+Death+Investigation+Systems&op=Search&affiliate=justice-archive>

Chapter

07

Registration of Marriage and Divorce

Why it is important: Registration of marriage is important in helping to prevent marriage fraud, bigamy, and child marriage. In addition, marriage registration is important for the realization of certain rights, such as rights to inheritance, family benefits, marriage allowances, collection of pension and insurance of a deceased spouse, and the right for a spouse to acquire a nationality, among others. Divorce registration helps demonstrate a person's right to remarry and provides evidence of termination of rights of a former spouse.

Introduction

Because marriages are conducted in a manner that is dependent on particular societal conventions, there is no standard registration process across countries. However, there are common elements that are often addressed in legislation or regulations concerning marriage registration, including: place of registration; application for marriage, including proof of age; issuance of the marriage certificate; and the process for registering marriages that occurred abroad. Some countries' law also address customary marriage. This section focuses on these common elements and good practices across countries, with a focus on determining whether a country's practices create any barriers to marriage registration.

This chapter covers the following topics:

1. Universal application
2. Place of registration
3. Application for marriage (or other legally recognized partnership)
4. Ceremony: Officiants and Witnesses
5. Marriage Certificate
6. Registration of Customary, Traditional, and Religious Marriages
7. Registration of marriage that occurred abroad
8. Transmittal of Divorce Decree to Registrar
9. Divorce Certificate or Copy of Divorce Decree

1. Universal application

Best Practice: The Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (effective since 1964) states: "All marriages shall be registered in an appropriate official register by the competent authority." This right to register a marriage must be universally available to all, and should capture all legally valid marriages occurring in every geographical area and every population group in the country.²²⁷

The UN defines marriage as "the act, ceremony or process by which the legal relationship of spouses is constituted." The legality of the union may be established by civil, religious or other means as recognized by the laws of each country. Some countries also have procedures to legally recognize and register civil unions and other domestic partnerships. A registered partnership usually refers to a legal construct, registered with the public authorities according to the laws of each country, that leads to legal conjugal obligations between two persons.²²⁸ Like marriages, registered partnerships should be recorded in the civil registration system.

Customary, traditional, religious and other types of marriages not recognized as legally valid are discussed in Section 6 below.

Guidance: Describe whether registration of all legally valid marriages and partnerships is compulsory. Indicate whether the law applies to all legally valid marriages and partnerships that occur in the country. Consider all forms of discrimination that may take place, including based on geography; racial, ethnic or religious groups; nomadic, displaced, native or aboriginal populations; refugees or asylum seekers within the country; resident foreign nationals; or any other characteristics. In the comments section, describe whether the law aligns with good practice and note any recommendations for regulatory reform.

a. Is registration required for all legally valid marriages and partnership?

²²⁷ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 128.

²²⁸ United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014, Para. 2.

Citation:

Comments:

2. Place of registration

Good practice: Country practices vary regarding place of registration. Some countries require marriage registration in the location where the marriage ceremony takes place. Others require registration at the place where one or the other or either spouse resides. Some countries may permit marriage registration at any registration location within the country, particularly if the system is centrally networked. Flexibility regarding the location of marriage registration may help increase marriage registration rates in some countries. Conversely, rigidly requiring marriage registration in a specific location - for example, at the registration office in the area of residence of one of the spouses - may create barriers to registration if the marriage ceremony occurs outside that area.²²⁹

Guidance: State the required place of registration for a marriage. Note any issues that may create barriers to registration. In the comments section, describe whether the law aligns with good practice and note any recommendations for regulatory reform.

a. Describe the required place of registration.

Citation:

Comments:

3. Application for marriage (or other legally recognized partnership)

Good Practice: A country's family law will generally address substantive requirements for marriage, including for example, the age at which a person can consent to marriage, and restrictions on remarriage, polygamous unions, and marriage between persons who are related. There must be a process to ensure that these requirements are met. Generally, this occurs through an application process, sometimes referred to as an application for a marriage license or a notice of marriage. Along with the application, generally both spouses must present proof of identity and proof of legal age to marry. If either spouse has been married previously, they must also present proof of dissolution of the previous marriage or proof of death of a spouse. There may also be a statement demonstrating the persons who are to marry are not close relatives.²³⁰

In some jurisdictions, the application must be filed by a specified time period before the marriage ceremony - referred to as the waiting period - in other jurisdictions, no waiting period is required. There also may be a requirement that notice of the marriage be published at the registration office or other location during the waiting period. The application is usually valid for a specified period of time, for example one year, during which the marriage ceremony must take place and/or completion of

²²⁹ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 382.

²³⁰ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 383-384.

registration occur at the registration office.²³¹

Guidance: Describe the application process. Specifically note whether any of the requirements present a barrier to registration, or if the lack of any requirement (such as no requirement to prove age) permit underage marriages to occur. In the comments section, describe whether the law aligns with good practice and note any recommendations for regulatory reform.

a. Describe the application process. Specifically address what documentary or evidentiary proof is required, waiting period, period of the validity of the application.

Citation:

Comments:

4. Ceremony: Officiants and Witnesses

Good practice: Some countries require that a civil marriage ceremony take place at the registrar office (after the waiting period and before the validity of the application expires, if applicable) in order for the marriage to be valid. A religious or other type of ceremony may be celebrated after the civil ceremony. Other countries, however, do not require that the marriage take place in front of the registrar and recognize religious or other ceremonies as creating a legal valid marriage. In this case, if a religious officiant or other marriage officiant conducts the marriage ceremony, that marriage officiant is required to submit documentation to the registrar verifying that the marriage ceremony took place. The registrar then registers the marriage and issues the marriage certificate. Many jurisdictions require the presence of one or two witnesses at the ceremony, regardless of whether it is a civil or religious ceremony, and the witness signature on the registration form or other documentation.²³²

Guidance: Describe whether a civil registrar must conduct a marriage ceremony or whether other types of officiants are permitted to conduct a marriage ceremony. If other officiants are permitted, describe the required actions of the officiant to complete marriage registration. Note whether anything in the process creates a barrier to registration. Note whether witnesses are required. In the comments section, describe whether the law aligns with good practice and note any recommendations for regulatory reform.

a. Must a marriage ceremony be conducted by civil registrar? If no, describe the process for registration of marriages conducted by other officiants.

Citation:

Comments:

b. Are witnesses required?

Citation:

²³¹ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 385.

²³² United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 387-388.

Comments:

5. Marriage Certificate

Best practice: Upon completion of marriage registration - either after a civil marriage at the registrar's office or after a religious or other officiant submits the required paper work - the registrar should issue a marriage certificate to the spouses. A marriage certificate may be needed for many legal purposes, such as insurance, inheritance, and social benefits. As with birth and death certificates, the local registrar should have the authority to issue a marriage certificate in order to speed up the issuance of the certificate.²³³

Guidance: State whether the local registrar has the authority and capacity to issue marriage certificates in a timely manner. In the comments section, describe whether the law aligns with best practice and note any recommendations for regulatory reform.

a. Does the local registrar have the authority and capacity to issue a marriage certificate in a timely manner?

Citation:

Comments:

6. Registration of Customary, Traditional, and Religious Marriages

Good practice: Some countries have low marriage registration rates because couples are “married” in customary, traditional, or religious ceremonies that are not recognized as marriage under the law. A process for registering these unions or marriages is important for legitimation of children, property rights, inheritance and other legal purposes. Therefore, there should be a process by which such unions or marriages can be registered retroactively by providing proof that the union or marriage occurred at some time in the past, such as affidavits or statements of witnesses to the wedding ceremony.²³⁴

Guidance: Describe any process for registration of customary, traditional or religious unions or marriage celebrated in a manner that is not legally recognized as marriage. In the comments section, describe whether the law aligns with good practice and note any recommendations for regulatory reform.

a. Describe any process for registration of unions or marriages celebrated in a manner that is not legally recognized as marriage.

Citation:

Comments:

²³³ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 392.

²³⁴ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 390.

7. Transmittal of Divorce Decree to Registrar

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.

The UN defines divorce as: "the legal final dissolution of a marriage, that is, that separation of spouses that confers on the parties the right to remarriage under civil, religious and/or other provisions, according to the laws of each country." Some countries' laws provide for other types of dissolution of marriage, such as judicial separation and annulment. The UN defines judicial separation as: "The disunion of married persons, without there being conferred on the parties the right to remarriage, according to the laws of each country." The UN defines annulment as: "Invalidation or voiding of a legal marriage by a competent authority, according to the laws of the country, thereby conferring on the parties the status of never having been married to each other."

As recognized by the United Nations Economic and Social Council, a divorce or judicial separation should only be granted by a competent judicial authority,²³⁵ 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 the parties and their children are protected.

All divorces, judicial separations, annulments, and dissolution of registered partnerships should be registered with the civil registration agency. The most efficient way to ensure that a divorce (or other dissolution ordered by a court) is registered is to place responsibility on the courts, as the informant, to report divorces/dissolutions to the civil registration agency. Relying on the former spouses to report the divorce/dissolution may result in a failure to report and an inaccurate marriage register. Therefore, courts should be required to collect specified information about each divorce/dissolution granted under their jurisdiction and to submit this information to the civil registration agency.²³⁶ (For more information on what information should be collected see Chapter 7 on Vital Statistics). The civil registrar then matches the information to the information in the marriage register to ensure that the marriage register reflects the divorce/dissolution. Legislation should require the courts to submit this information within a specified time period.²³⁷

Guidance: Answer the question below regarding the process for registering a divorce or other dissolution of a marriage or partnership. In the comments section, describe whether the law aligns with best practice and note any recommendations for regulatory reform.

a. Describe the process for transmitting information about a divorce or other dissolution to the civil registration agency. Specifically address who is required to report the information and the time frames.

Citation:

Comments:

²³⁵ United Nations Economic and Social Council, Resolution 1068 F of 1965.

²³⁶ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 399-400.

²³⁷ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 399-400.

8. Divorce Certificate or Copy of Divorce Decree

Good practice: Upon dissolution of the marriage, the parties to the dissolution should each be given a copy of the divorce decree or a certificate of divorce. In most jurisdictions the court issues a copy of the divorce decree, in other jurisdictions the registrar may also issue a certificate of divorce.²³⁸ If a certificate of divorce is issued, the local registrar should have the authority and capacity to issue the certificate.

Guidance: Describe the process by which the parties receive documentation of the divorce (or other dissolution of marriage or partnership). In the comments section below, describe whether the law aligns with good practice and note any recommendations for regulatory reform.

a. Describe the process by which the parties receive documentation of the divorce (or other dissolution of marriage or partnership).

Citation:

Comments:

²³⁸ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 403.

Chapter

08

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.²³⁹ Similarly, a national identity management system must be continuous, permanent, and universal.²⁴⁰ 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,²⁴¹ 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.²⁴² 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

²³⁹ U.N. Principles and Recommendations for a Vital Statistics System, Revision 3, 2014, paragraph 293.

²⁴⁰ U.N. Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management, 2019, paragraph. 24.

²⁴¹ 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>.

²⁴² 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.

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 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 Rights²⁴³ (Art. 24) and the Convention on the Rights of the Child (CRC)²⁴⁴ 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).²⁴⁵ 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.²⁴⁶

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.²⁴⁷ 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

²⁴³ International Covenant on Civil And Political Rights, available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>.

²⁴⁴ Convention on the Rights of the Child, available at: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

²⁴⁵ 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>.

²⁴⁶ 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>.

²⁴⁷ U.N. Principles and Recommendations for a Vital Statistics System, Revision 3, paras. 349, 356.

in writing, and in person or online).²⁴⁸ 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 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.²⁴⁹

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.²⁵⁰ Even when a live birth occurs in the community, many countries find it effective to designate the birth attendant as the primary informant.²⁵¹ (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.²⁵² 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.²⁵³ 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

²⁴⁸ U.N. Principles and Recommendations for a Vital Statistics System, Revision 3, para. 351.

²⁴⁹ Sex Discrimination in Birth Registration, UNHCR/UNICEF, 2021, page 15, available at: <https://reliefweb.int/report/world/background-note-sex-discrimination-birth-registration>.

²⁵⁰ U.N. Principles and Recommendations for a Vital Statistics System, Revision 3, para. 350.

²⁵¹ U.N. Guidelines on the Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, paras 257, 312, 318.

²⁵² Sex Discrimination in Birth Registration, UNHCR/UNICEF, 2021, page 15, available at: <https://reliefweb.int/report/world/background-note-sex-discrimination-birth-registration>.

²⁵³ Sex Discrimination in Birth Registration, UNHCR/UNICEF, 2021, page 8.

their parents.²⁵⁴

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. Some retain strong links with their families, while others have lost all contact.²⁵⁵ 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 are can be described as fragile, violent or unstable, orphaned or abandoned children are more unusual.²⁵⁶

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.²⁵⁷ 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.”²⁵⁸

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.²⁵⁹ 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

²⁵⁴ United Nations, Office of the High Commission 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>.

²⁵⁵ 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>

²⁵⁶ United Nations, Office of the High Commission on Human Rights (UN OHCHR), Protection and promotion of the rights of children working and/or living on the street, paragraph 16.

²⁵⁷ 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.

²⁵⁸ United Nations, Office of the High Commission on Human Rights (UN OHCHR), Protection and promotion of the rights of children working and/or living on the street, paragraph 68.

²⁵⁹ 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.

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.

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.²⁶⁰

Proof of marriage should not be a prerequisite to birth registration.²⁶¹ 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.²⁶² 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

²⁶⁰ UN Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management, paragraph 292.

²⁶¹ Sex Discrimination in Birth Registration, UNHCR/UNICEF, 2021, page 15, available at: <https://reliefweb.int/report/world/background-note-sex-discrimination-birth-registration>.

²⁶² Sex Discrimination in Birth Registration, UNHCR/UNICEF, 2021, page 10, available at: <https://reliefweb.int/report/world/background-note-sex-discrimination-birth-registration>.

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.²⁶³

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-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.²⁶⁴

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:

²⁶³ UN Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management, paragraph 292.

²⁶⁴ Sex Discrimination in Birth Registration, UNHCR/UNICEF, 2021, page 15, available at: <https://reliefweb.int/report/world/background-note-sex-discrimination-birth-registration>

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

Citations:

Comments:

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.²⁶⁵

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.²⁶⁶ 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.²⁶⁷

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

²⁶⁵ Sex Discrimination in Birth Registration, UNHCR/UNICEF, 2021, page 13, available at: <https://reliefweb.int/report/world/background-note-sex-discrimination-birth-registration>.

²⁶⁶ Sex Discrimination in Birth Registration, UNHCR/UNICEF, 2021, page 10, available at: <https://reliefweb.int/report/world/background-note-sex-discrimination-birth-registration>.

²⁶⁷ 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.

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.²⁶⁸

In some countries, laws require mothers who are minors to be accompanied by a legal representative to register the birth of their child.²⁶⁹ 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 the informant.²⁷⁰ To avoid this situation, civil registration information should be kept confidential (a key principle of civil registration²⁷¹) 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:

²⁶⁸ Sex Discrimination in Birth Registration, UNHCR/UNICEF, 2021, page 12, available at: <https://reliefweb.int/report/world/background-note-sex-discrimination-birth-registration>.

²⁶⁹ Sex Discrimination in Birth Registration, UNHCR/UNICEF, 2021, page 12, available at: <https://reliefweb.int/report/world/background-note-sex-discrimination-birth-registration>.

²⁷⁰ Sex Discrimination in Birth Registration, UNHCR/UNICEF, 2021, page 12, available at: <https://reliefweb.int/report/world/background-note-sex-discrimination-birth-registration>.

²⁷¹ UN Principles and Recommendations for a Vital Statistics System, paragraph 36 – 37.

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.

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.²⁷² 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.²⁷³

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

²⁷³ *Making Every Baby Count: Audit and review of stillbirths and neonatal deaths*, World Health Organization, 2016, page 5, available

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.²⁷⁴

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 used.²⁷⁵ Information from registration or reporting of stillbirths should be used to derive vital statistics on stillbirths, which should be published at least annually.²⁷⁶

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:

at: <https://www.who.int/publications/i/item/9789241511223>.

²⁷⁴ UN Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management, paragraph 313.

²⁷⁵ ICD-10 volume, sections 5.14, available at https://icd.who.int/browse10/Content/statichtml/ICD10Volume2_en_2019.pdf

²⁷⁶ ICD-10 volume, sections 5.14, available at https://icd.who.int/browse10/Content/statichtml/ICD10Volume2_en_2019.pdf.

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:

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.²⁷⁷ A late registration occurs after the legally specified time period, but within a grace period, usually defined as one year after the vital event.²⁷⁸ Delayed registration occurs after the grace period ends.²⁷⁹

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.²⁸⁰ 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.²⁸¹ 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

²⁷⁷ U.N. Handbook of Vital Statistics Systems and Methods Volume I: Legal, Organizational, and Technical aspects, para. 182.

²⁷⁸ U.N. Principles and Recommendations for a Vital Statistics System, Revision 3, para. 363.

²⁷⁹ U.N. Principles and Recommendations for a Vital Statistics System, Revision 3, paras 369-370.

²⁸⁰ U.N. Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, paragraph 281.

²⁸¹ 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.

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.

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.²⁸²

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.²⁸³ 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.

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.²⁸⁴ 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:

²⁸² United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 128.

²⁸³ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 390.

²⁸⁴ 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>.

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.²⁸⁵ 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.²⁸⁶ 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.

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:

²⁸⁵ UNICEF, webpage on “Child Marriage”, available at: <https://data.unicef.org/topic/child-protection/child-marriage/>.

²⁸⁶ Convention on the Rights of the Child, Article 1.

- 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,²⁸⁷ 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.

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.²⁸⁸ (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.²⁸⁹ 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?

²⁸⁷ United Nations Economic and Social Council, Resolution 1068 F of 1965.

²⁸⁸ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 399-400.

²⁸⁹ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 403.

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

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.²⁹⁰

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.²⁹¹

²⁹⁰ 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.

²⁹¹ J.C. Knowles, G. Koolwal, Gender Issues in CRVS and Access to Adult Identity Documentation: Report to the UN Foundation under

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.²⁹²

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:

- 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:

the Data2X Initiative, 2016, page 7.

²⁹² Rights of Children in Street Situations, General Comment No. 21 (2017) on Children in Street Situations, Consortium for Street Children and UNOHCHR, paragraph 41.

Chapter

09

Production of Vital Statistics

Why it is important: Vital statistics inform governments and their external partners, as well as the public, about the patterns and trends of diseases, mortality, fertility, and migration in a given country's population. The collection, analysis, and dissemination of vital statistics are essential for informed public policy and decision-making to improve health and socioeconomic outcomes.

Introduction

Vital statistics constitute the collection of statistics on vital events in a lifetime of a person as well as relevant characteristics of the events themselves and of the person and persons concerned.²⁹³ These vital events include, at a minimum, birth, death, foetal death (or stillbirth), marriage, and divorce; and may also include other vital events such as adoption, recognition, legitimation, annulment and judicial separation (depending on the concepts recognized in a country's legal system). Vital statistics provide a timely and current measure of the occurrence of these vital events to members of the country's population during a specified period.²⁹⁴ Vital statistics provide critical information on the population and should be used by policymakers and the public to make informed policy decisions, in conjunction with other demographic and social statistics. Because civil registration is continuous, permanent, compulsory and universal, information collected from a well-functioning civil registration system is the ideal source for generating vital statistics.

This chapter covers the following topics:

1. Agency Responsible for Vital Statistics
2. Vital Statistics Derived from Civil Registration System
3. Information Sharing
4. Compilation
5. Regular Publication of Recent Data
6. Information Collected
7. Minimum List of Tabulations

1. Agency Responsible for Vital Statistics

Best Practice: Vital statistics constitute the collection of statistics on vital events in a lifetime of a person as well as relevant characteristics of the events themselves and of the person and persons concerned.²⁹⁵ Clear authority and responsibility for the production and dissemination of vital statistics should improve availability of information to decision-makers. In most countries, there is a national agency - e.g., the national statistics agency - responsible for compiling national data and establishing uniform national standards and guidelines for statistics.²⁹⁶ Some countries designate specific government agencies or departments to carry out different vital statistics functions related to their respective areas of work. For example, the health service agency might collect and process data on births, deaths, foetal deaths, and cause of death, while the general statistical service or the court system might compile marriage and divorce statistics.²⁹⁷ However, even in this case, there should be a central agency that sets uniform national standards for statistics.

Guidance: Describe the entity or entities responsible for producing and publishing vital statistics. If more than one entity is responsible for the production of vital statistics, state whether and what entity is responsible for setting national standards. In the comments section, describe whether the law aligns with best practice and note any recommendations for regulatory reform.

²⁹³ *Principles and Recommendations for a Vital Statistics System, Revision 3*, United Nations Publication, Sales No.E.13.XVII.10, United Nations, 2014, paragraph 1.

²⁹⁴ *Principles and Recommendations for a Vital Statistics System, Revision 3*, United Nations Publication, Sales No.E.13.XVII.10, United Nations, 2014, paragraph 281.

²⁹⁵ United Nations, *Principles and Recommendations for a Vital Statistics System, Revision 3*, New York, 2014, Para. 1.

²⁹⁶ United Nations, *Principles and Recommendations for a Vital Statistics System, Revision 3*, New York, 2014, Para. 42.

²⁹⁷ United Nations, *Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems*, New York, 2019, Para. 241.

- a. Describe the entity or entities responsible for compiling and producing vital statistics.

Citation:

Comments:

- b. If more than one entity produces vital statistics, state the entity responsible for setting national standards.

Citation:

Comments:

2. Vital Statistics Derived from Civil Registration System

Best Practice: Vital statistics provide crucial information on the population of a country,²⁹⁸ which is a prerequisite to socioeconomic planning and informed decision-making. A well-functioning civil registration system is the ideal source from which to derive accurate, complete, timely and continuous information on vital events, including at the national and sub-national levels. Therefore vital statistics should be derived from civil registration data. Complementary data sources, such as population censuses and in-depth household surveys, may be used to evaluate and enrich civil registration data and to gather information on demographic and epidemiological processes that complements the information obtained through civil registration.^{299, 300}

Guidance: Indicate whether there is a requirement to derive vital statistics from civil registration records and whether other data sources are considered valid sources for vital statistics compilation. In the comments section, describe whether the law aligns with best practice and note any recommendations for regulatory reform.

- a. Are vital statistics derived from civil registration?

Citation:

Comments:

- b. Are vital statistics supplemented from population censuses, household sample surveys, health records, or other demographic estimates?

Citation:

Comments:

²⁹⁸ United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014. Para. 1.

²⁹⁹ United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014. Para. 28.

³⁰⁰ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 484-487.

3. Information Sharing

Best practice: The civil registration agency must submit information collected during registration to the national statistics agency in order for the statistics agency to compile and publish vital statistics based on civil registration records. Sharing of data should be regular and timely. For example, if the systems are computerized and integrated, submission may be automated and happen continuously, or daily, weekly, or monthly. In paper-based systems, submission might be less frequent, such as monthly or quarterly.

The privacy of individuals must be sufficiently protected when data is shared with the statistics agency. Generally, vital event information should be submitted from the civil registration agency to the statistics agency with identifying information – such as name and any unique identification number - removed. However, in some countries, all identifying data is removed except for the unique identification number, in order to allow for data verification, deduplication and quality control. If this is the case, procedures must be put in place to ensure that statisticians do not have access to personally identifying information.

Guidance: Describe the procedure for sharing of information between the civil registration agency and the statistics agency, including frequency of data sharing and procedures for personal privacy protection. In the comments section, describe whether the law aligns with best practice and note any recommendations for regulatory reform.

a. Describe procedures and timeframe for information sharing between the civil registration agency and national statistics agency.

Citation:

Comments:

b. Describe procedures for privacy protection.

Citation:

Comments:

4. Compilation

Best practice: The compilation of vital statistics data is the process of condensing and summarizing information on vital events by classifying and tabulating the data within categories or groups in order to produce vital statistics according to a predetermined tabulation programme. Vital statistics should be compiled for the total geographical area of the country, for each of the major or minor civil divisions, and for each principal town and city. Vital statistics should distinguish between urban and rural for at least the country as a whole and for each major or other civil division.³⁰¹ National vital statistics should be compiled uniformly for the country, using common definitions, classifications, coding, querying, data entry and editing procedures throughout. During compilation, the statistics agency should conduct an internal review

³⁰¹ United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014, paragraph 213.

to validate the data and ensure there is no missing, duplicative, improbable or erroneous data.³⁰²

Guidance: Describe how vital statistics are compiled, including: 1) geographic coverage and subdivisions; 2) whether compiled centrally or sub-nationally; 3) if sub-nationally, whether compiled uniformly across the country; 4) whether internal validation reviews are conducted. In the comments section, describe whether the law aligns with best practice and note any recommendations for regulatory reform.

- a. **Describe the geographic coverage of vital statistic.** Note whether the entire country is covered, and whether statistics are disaggregated major and minor subdivisions, principal towns cities, and urban/rural.

Citation:

Comments:

- b. **Are vital statistics compiled centrally?** If not, are vital statics compiled according to uniform standards across the country?

Citation:

Comments:

- c. **Describe any processes for internal validation, if known.**

Citation:

Comments:

5. Regular Publication of Recent Data

Best practice: It is important that vital statistics are current when published to ensure up-to-date information is available for decision-making. Detailed tabulations of each type of vital event, cross-classified by its demographic and socioeconomic characteristics, should be published at least annually.³⁰³ In addition, total monthly or quarterly summary counts of vital events should be made available on a time schedule prompt enough to provide information for decision-making.³⁰⁴ Even if civil registration is not complete, tabulations should be prepared and users should be provided with the information available, along with the level of completeness of registration.³⁰⁵ Although important, timeliness should not supersede completeness and accuracy.³⁰⁶

The data used to derive vital statistics must be timely. Therefore, late or delayed registrations should not

³⁰² United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 490-492.

³⁰³ United Nations, Handbook of Vital Statistics Systems and Methods Volume I: Legal, Organizational, and Technical Aspects, New York, 1991. P. 46, para. 333.

³⁰⁴ United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014. Para. 38.

³⁰⁵ United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014. Para. 240.

³⁰⁶ United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014. Para. 576.

be included in vital statistics for a specified time period if the event did not occur in that time period. For example, if a birth occurred in 2015 but was not registered until 2016, the birth should not be included in vital statistics for 2016.

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

a. Describe the frequency of vital statistics publication (e.g., yearly, quarterly, monthly).

Citation:

Comments:

b. Describe the timeliness of data in reports. Note how long after the close of the year annual statistics are published (e.g., statistics for 2020 are published in June 2021).

Citation:

Comments:

c. If known, describe procedures to separate data from delayed registration from timely registrations.

Citation:

Comments:

6. Information Collected

Best Practice: In addition to the legal information necessary for registering a vital event (i.e., the information entered into the register), the UN recommends information that should be collected for statistical purposes, broken down into high-priority information, which every country should strive to collect at registration, and lower-priority information, which can gradually be added to the registration process as resources and technology permit.³⁰⁷ It is necessary to collect this information in order to generate the UN recommended tabulations, discussed below in Section 7.

Guidance: To complete the worksheets below, review the laws and civil registration forms to determine what information is collected during registration of birth, death, foetal death/stillbirth, marriage and divorce. Fill in the "Actual Practice" column for each vital event based on current practice in your country. Place an "X" in the box if the information is collected. Note that high priority topics are indicated by a solid shape (e.g., ●) and low priority topics are indicated by a non-solid shape (e.g., ○). In the comments section below each worksheet, note any UN high priority topics that are not collected during registration.

Information Collected at Birth Registration

³⁰⁷ U.N. Principles and Recommendations for a Vital Statistics System, Revision 3, para. 66, Table III.1

	Best Practice: Live Birth	Actual Practice: Live Birth
Characteristic of Event [● = High Priority, ○ = Lower Priority]		
Date and Place of Registration	●	
Date and Place of Occurrence	●	
Attendant at birth	●	
Type of place of occurrence (hospital, home, etc.)	○	
Type of Birth (twin, triplet, etc.)	●	
Characteristics of Newborn [● = High Priority, ○ = Lower Priority]		
Sex	●	
Weight at birth	●	
Characteristics of Mother/Father [Mother / Father = high priority, <i>mother / father</i> = Lower Priority]		
Date of birth	Mother / Father	
Marital Status	Mother / Father	
Educational Attainment	Mother / Father	
Literacy status	<i>mother / father</i>	
Ethnic and/or national group	<i>mother / father</i>	
Citizenship	<i>mother / father</i>	
Economic activity status	<i>mother / father</i>	
Usual occupation	<i>mother / father</i>	
Place of usual residence	Mother / Father	
Duration of residence in usual place	Mother / father	
Place of previous residence	<i>mother / father</i>	
Place/country of birth	Mother / father	
Date of last menstrual period	<i>mother</i>	
Number of prenatal visits	<i>mother</i>	
Month of pregnancy prenatal care began	<i>mother</i>	
Children born alive to mother during her entire lifetime	Mother	
Children born alive to mother during her entire lifetime and still living	<i>mother</i>	
Foetal deaths to mother during her entire lifetime	Mother	
Date of last previous life birth	Mother	
Date of marriage	Mother	

Citations:

Comments:

Information Collected at Death Registration

	Best Practice: Death	Actual Practice: Death
Characteristic of Event [●=High Priority, ○= Lower Priority]		
Date and Place of Registration	●	
Date and Place of Occurrence	●	
Cause of Death*	●	
Manner of Death	○	
Whether autopsy findings used to establish COD	○	
Death occurring during pregnancy, childbirth, puerperium (for females 15-49 years of age)	○	
Certifier	●	
Attendant at birth (for deaths under 1 year of age)	●	
Type of place of occurrence (hospital, home, etc.)	○	
Characteristics of Decedent [●=High Priority, ○= Lower Priority]		
Date of birth	●	
Sex	●	
Marital Status	●	
Educational Attainment	○	
Literacy status	○	
Ethnic and/or national group	○	
Citizenship	○	
Economic activity status	○	
Usual occupation	○	
Whether birth was registered (for deaths under 1 year of age)	○	
Born in wedlock (for deaths under 1 year of age)	○	
Place of usual residence	●	
Place of usual residence of mother (for deaths under 1 year)	●	
Duration of residence in usual place	○	
Place of previous residence	○	
Place/country of birth	○	

* Cause of Death is a high priority topic. However, lack of information on cause of death should not prevent death registration.

Citations:

Comments:

Information collected at Foetal Death (Stillbirth) Registration or Reporting

	Best Practice: Foetal Death	Actual Practice: Foetal Death
Characteristic of Event [●=High Priority, ○= Lower Priority]		
Date and Place of Registration	●	
Date and Place of Occurrence	●	
Attendant at birth	○	
Type of Birth (twin, triplet, etc.)	○	
Type of place of occurrence (hospital, home, etc.)	○	
Cause of Foetal Death	○	
Certifier	○	
Characteristics of Foetus [●= High Priority, ○= Lower Priority]		
Sex	●	
Weight at delivery/stillbirth	○	
Delivered in wedlock	○	
Date of last menstrual period of mother (gestational age is derived from this)*	○	
Characteristics of Mother/Father [Mother / Father = high priority, <i>mother / father</i> = Lower Priority]		
Date of birth	Mother/Father	
Educational Attainment	<i>mother/father</i>	
Literacy status	<i>mother/father</i>	
Ethnic and/or national group	<i>mother/father</i>	
Citizenship	<i>mother/father</i>	
Economic activity status	<i>mother/father</i>	
Usual occupation	<i>mother/father</i>	
Place of usual residence	Mother/Father	
Duration of residence in usual place	<i>mother/father</i>	
Place of previous residence	<i>mother/father</i>	
Ethnic and/or national group	<i>mother/father</i>	
Citizenship	<i>mother/father</i>	
Place of birth	<i>mother/father</i>	
Number of prenatal visits	<i>mother</i>	
Month of pregnancy prenatal care began	<i>mother</i>	
Children born alive to mother during her entire lifetime	Mother	
Children born to mother during her entire lifetime and still living	<i>mother</i>	
Foetal deaths to mother during her entire lifetime	Mother	
Date of last previous life birth	Mother	
Date of marriage	Mother	

*Note: Although the UN designates “date of last menstrual period of mother” as lower priority, in practice this is treated like a high priority topic because stillbirths are reported using gestational age as a threshold criteria (see guidance above).

Information collected at Marriage Registration

	Best Practice: Marriage	Actual Practice: Marriage
Characteristic of Event [●= Higher Priority , ○=Lower Priority]		
Date of occurrence	●	
Date of registration	●	
Place of occurrence	●	
Place of registration	●	
Type of marriage	○	
Characteristics of Spouses (each separately) [●=High Priority ○=Lower Priority]		
Date of birth	●	
Marital Status (previous)	○	
Number of previous marriage	○	
Educational attainment	○	
Literacy status	○	
Economic activity status	○	
Usual occupation	○	
Ethnic and/or national group	○	
Citizenship	○	
Place of usual residence	●	
Duration of residence in usual place	○	
Place of previous residence	○	
Place/country of birth	○	

Citations:

Comments:

Information Collected at Divorce Registration

	Best Practice: Divorce	Actual Practice: Divorce
Characteristic of Event [●= High Priority , ○= Lower Priority]		
Date of occurrence	●	
Date of registration	●	
Place of occurrence	●	
Place of registration	●	
Characteristics of Spouses/Divorces (each separately) [●=High Priority, ○=Lower Priority]		
Date of birth	●	
Number of previous marriage	○	
Type of marriage being dissolved	○	
Number of dependent children of divorced persons	○	
Number of children born alive to the marriage being dissolved	○	
Date of marriage	●	
Mode of dissolution of previous marriage	○	
Educational attainment	○	
Literacy status	○	
Economic activity status	○	
Usual occupation	○	
Ethnic and/or national group	○	
Place of usual residence	●	
Duration of residence in usual place	○	
Place of previous residence	○	
Place/country of birth	○	
Place of occurrence of marriage being dissolved	○	

Citation:

Comments:

7. Minimum List of Tabulations

Best practice: Countries should publish, at least annually, a series of tabulations calculated from vital event data. The UN Principles and Recommendations provides a recommended minimum list of tabulations, which disaggregate vital events by socioeconomic and demographic data.³⁰⁸ These minimum tabulation tables are set out below.

Guidance: Review recent available vital statistics and describe the tabulations generated for live births, deaths, cause of death, infant death, foetal death, marriage, divorce and summary tables. Compare these vital statistics to the tabulation tables recommended by the UN. In the comments section, analyze whether the UN minimum tabulations are being produced.

Describe the tabulations contained in recent vital statistics publications. Note the socioeconomic and demographic topics that are cross tabulated with each of the vital events below.

- a. Live birth:
- b. Death:
- c. Cause of death:
- d. Infant death:
- e. Foetal death:
- f. Marriage:
- g. Divorce:
- h. Summary:

Citation:

Comments:

Minimum list of tabulations:

Live births by...
place of occurrence & sex of child
place of occurrence & place of usual residence of mother
place of registration, month of occurrence, & month of registration
month, place of occurrence & place of usual residence of mother
age, place of usual residence, & marital status of mother
age of father
place of usual residence, age, & educational attainment of mother
educational attainment & age of mother & live-birth order
place of usual residence & age of mother, sex of child & live-birth order
live-birth order & interval between last & previous live births to mother
place of birth, place of usual residence, & age of mother
place of usual residence & age of mother & legitimacy status
place of occurrence, site of delivery, & attendant at birth
site of delivery, attendant at birth, & birth weight
birth weight & place of usual residence & educational attainment of mother

³⁰⁸ United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014. Pp. 157-159.

	gestational age, place of usual residence of mother & birth weight
	birth weight, place of usual residence of mother & month in which prenatal care began
	age & place of usual residence of mother & month in which prenatal care began
	live-birth order, place of usual residence of mother, & month in which prenatal care began
	place of usual residence of mother & duration of residence at the current usual residence

Deaths by...	
	place of usual residence & sex of decedent
	place of occurrence & place of usual residence & sex of decedent
	month & place of occurrence & place of usual residence of decedent
	place of registration, month of occurrence, & month of registration
	place of occurrence & site of occurrence
	place of usual residence, age & sex of decedent
	age, sex, place of usual residence & marital status of decedent
	place of usual residence, age, sex, & educational attainment of decedent
	sex, cause of death, place of usual residence, & age of decedent
	month of occurrence & cause of death
	Place of occurrence, sex of decedent, & type of certification
	age & type of usual activity of decedent
	Maternal deaths by cause of death & age of woman

Cause of Death by...	
	sex (standard is to list at least 10 leading causes of death)
	age group (standard is to list at least 10 leading causes of death)
	communicable disease, non-communicable disease or external cause (presented by age group and sex)
	manner of death: disease, accident, intentional self-harm, assault, legal intervention, war, pending investigation, unknown or manner undetermined (presented by age group and sex)

Infant deaths by...	
	place of occurrence & place of usual residence of mother
	month of occurrence & sex & age of child
	place of usual residence of mother & age & sex of child
	cause of death, place of usual residence of mother & sex & age of child

Live births & foetal deaths	
	Confinements by type of birth & status of issue (live-born or born dead)
	Confinements by birth order & birth weight, for each type of birth
	Confinements by type of birth & age of mother, for each sex

Foetal deaths by...	
	age & place of usual residence of mother & sex of foetus
	sex & legitimacy status of foetus
	age of mother & legitimacy status & sex of foetus
	place of usual residence of mother, sex, & birth weight

	place of usual residence of the mother & gestational age & birth weight
	age & place of usual residence of mother & birth weight
	sex & gestational age
	age of the mother & total birth order (live births plus foetal deaths)
	month of pregnancy in which prenatal care began & number of visits & place of usual residence of the mother
	place of occurrence & type of certification

Marriages by...	
	place of usual residence of groom and month of occurrence
	place of usual residence of groom and age of bride and of groom
	age and previous marital status of bride and of groom
	educational attainment of bride and of groom
	occupation of bride and of groom

Divorces by...	
	place of usual residence husband
	age of husband and wife
	duration of marriage and age of husband and wife
	duration of marriage and number of dependent children
	educational attainment of husband and wife
	occupation of husband and wife
	number of previous marriages of husband and wife

Summary Tables	
	Live births, deaths, infant deaths, foetal deaths, marriages, & divorces by place of usual residence
	Crude birth rate, crude death rate, infant mortality rate by sex, foetal mortality rate, crude marriage rate, & crude divorce rate, by place of usual residence
	Time series of live births by place of usual residence of mother (past 10 years)
	Time series of deaths by place of usual residence of decedent (past 10 years)
	Time series of infant deaths by place of usual residence of mother (past 10 years)
	Time series of foetal deaths by place of usual residence of mother (past 10 years)
	Time series of vital events in the country (past 10 years)

Chapter

10

National Identity System

Why it is important: Everyone has the right to be recognized as a person before the law, as enshrined in Article 6 of the Universal Declaration on Human Rights and several other international human rights instruments. Legal identity is widely recognized to be fundamental to the exercise of human rights and to benefit from numerous government and private sector services. As such, the 2030 Agenda for Sustainable Development, agreed by all UN Member States in September 2015, established a specific target within the Sustainable Development Goals (SDGs) – Target 16.9 – to establish “legal identity for all, including birth registration, by 2030.”³⁰⁹

³⁰⁹ United Nations, Principles of Legal Identity in the Context of the 2030 Agenda for Sustainable Development, New York, September 2018, p. 1.

Introduction

This chapter provides best practices for national identification registration and management of a national identification system. A national identification system is a foundational identification system that provides national IDs - often in the form of a card - and potentially other credentials. Foundational ID systems provide general identification and credentials to the population for public administration and a wide variety of public and private sector transactions, services, and derivative credentials.³¹⁰ Foundational ID systems are therefore distinct from functional (sector specific) ID systems, which are created for a particular service or transaction - such as driver and vehicle registration, voting registration, tax administration, and social and transfer programs. Countries may maintain many functional ID systems and issue associated functional identity credentials.³¹¹ In addition, there may be privately issued ID credentials. This chapter addresses a country's national identification system, with a focus on the integration of that system with the civil registration system.³¹²

This chapter covers the following topics:

1. Agency Responsible for National ID Management, Powers and Responsibilities
2. Accessibility of Services: Location and Powers of ID Registration Offices
3. Universality
4. Enrollment in National ID credential program: Information collected and age of enrollment
5. Validation: Birth Registration as basis for ID registration
6. UIC assignment
7. Process for Information Sharing Between Local Registration Office and National Level
8. Information available from credential
9. Authentication
10. Retirement of Legal Identity
11. Fees and Resources
12. Qualifications of Registrars
13. Process for hearing appeals
14. Monitoring and Evaluation

1. Agency Responsible for National ID Management: Powers and Responsibilities

Best Practice: The legal framework should assign the functions of establishing, operating, and maintaining a national identity management system to a government agency, and provide a clear designation of powers and responsibilities to the relevant agency. In some countries, the agency responsible for ID management is also the agency responsible for civil registration. In other countries, there are different agencies responsible for ID management and civil registration. Either is good practice.

Powers and responsibilities for ID management should include, at a minimum: enrolling individuals in the identity management system (i.e., capturing and recording key attributes, including biographical data and/or biometric data), validating individuals in the identity management system (checking their attributes against existing data to verify identity), issuing identity credentials, and establishing processes for authentication of identity.³¹³ The legal framework should empower the head of the national ID management agency, (which we will call the National Identity Registrar) or the Minister in charge of that agency, to set rules and standards for the implementation of various operations within the identity

³¹⁰ ID4D, ID Enabling Environment Assessment, World Bank, 2018, p.9.

³¹¹ ID4D, ID Enabling Environment Assessment, World Bank, 2018, p.10.

³¹² For a broader discussion on all types of ID systems, as well a guide to assessing those systems, see ID4D, ID Enabling Environment Assessment, World Bank, 2018, available at: <http://id4d.worldbank.org/legal-assessment>.

³¹³ United Nations Guidelines on the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 236

management system, including registration (enrollment and validation) of identity, issuance of identity credentials, management of identity data, and identity authentication services. If the Minister is granted rulemaking authority, rather than the National Identity Registrar, the legal framework should require that the National Identity Registrar be consulted on rule making.

Guidance: Answer the questions below. In the comments section, analyze whether the powers of the national ID management agency and the National Identity Registrar, are adequate to fulfill its responsibilities.

- a. **State which entity is responsible for national ID management** (if part of a ministry, also state the ministry):

Citation:

- b. **Describe the powers and responsibilities of the ID management agency and the National Identity Registrar.** In addition to describing general responsibilities, specifically address if the National Identity Registrar or the Minister has rule-making powers.

Citation:

Comments:

2. Accessibility of Services: Location and Powers of ID Registration Offices

Best Practice: In order to make ID registration accessible to the entire population, ID registration offices should be established at the local level, for example in villages, towns and municipalities. Each primary identity registration office should cover an area that corresponds with minor civil divisions of the country, adjusting boundaries, if necessary, based on population, resources, accessibility, literacy, and simplicity of registration.³¹⁴ In addition, regular daily office hours should be kept.

Duties and responsibilities of local identity registrars should include: collecting biometrics (if applicable) and biographical information; ensuring accuracy and completeness of registration information; validating identity; transferring identity information to the national level; and issuing identity credentials. Because production of the identity credential may require specialized equipment, production of ID cards may be done at the regional or national level instead of the local level. However, a person should not have to travel to the regional or national level to collect an ID card; rather, ID cards should be sent to the local level for issuance or collection.

In some countries, the national identity management agency may also maintain identity management offices that correspond to the major civil sub-divisions of the country. For example, in addition to offices in villages, towns, and municipalities, the national agency may also have offices at the provincial or regional level. These mid-level offices may serve various functions. They may have supervisory authority over the lower-level registration offices in their jurisdiction, be empowered to undertake primary office functions (i.e., identity registration), and/or be responsible for ID credential production. Whether mid-level identity management offices exist, and the powers and responsibilities they hold, is dependent on the needs of the system.

Guidance: Describe the location of identity registration offices and, in the comments section, analyze

³¹⁴ United Nations, Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, New York, 2019, Paras. 171 - 173, 239.

whether identity registration offices and services are reasonably accessible to all persons in the country. Describe the powers and responsibilities of registration offices and, in the comments, note whether each level has sufficient authority to provide efficient service to the population.

- a. **Describe the location of each level of identity registration office.** State whether the location of local registration offices correspond to minor civil divisions, and state the location of mid-level registration offices (if any).

Citation:

Comments:

- b. **Describe the powers and responsibilities of local and mid-level registration offices.** Specifically address whether local and/or mid-level offices are responsible for identity enrollment, identity validation, identity credential production, and identity credential issuance to the individual, or whether some of these responsibilities are assigned only to the national level.

Citation:

Comments:

3. Universality

Best Practice: The ability to prove one's identity is fundamental to the exercise of human rights as well as to benefit from government and private sector services. Therefore, as with civil registration, proof of identity should be provided without discrimination or distinction, including discrimination based on geography; racial, ethnic or religious group; status as a member of a nomadic, indigenous, native or aboriginal population; status as displaced, stateless, refugee, asylum seeker, or person of undetermined nationality; or status as a foreign national born in the country, temporary or migrant worker, or any other immigrant; or any other characteristic. Regardless of the type of identity credential issued, it must be legally valid and be sufficient documentation to gain access to rights and services to which the individual is entitled.³¹⁵

While some form of proof of identity must be available to all, a national identity card or other credential is not necessarily compulsory. Country practices vary on whether registering for and obtaining a national identity card or other credential is mandatory, voluntary, or even available. In countries that do not issue a national identity credential, other forms of identification are issued for sectoral purposes (for example, passport, driver's license, etc.) and can be used as proof of identity.³¹⁶ In all cases, some form of proof of identity should be available to all persons within the territory of a country without discrimination.

Guidance: Describe whether some form of national identity document or credential is compulsory or available for all persons within the country. Consider all forms of discrimination that may take place, including geography; racial, ethnic or religious groups; nomadic, displaced, native or aboriginal populations; refugees or asylum seekers within the country; foreign nationals born in the country; temporary or migrant

³¹⁵ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 436.

³¹⁶ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, Para. 47.

workers, or any other immigrant; or any other characteristics. Describe whether different forms of identity documents are provided for different populations (for example, a national ID card for citizens and an immigration card for non-citizens). In the comments section, describe whether the law aligns with best practice and note any recommendations for regulatory reform.

a. Is some form of identity credential available and provided for all, regardless of:

Geography (for example, remote areas)? Yes No

Race, ethnicity, religion, gender? Yes No

Nomadic, displaced, native or aboriginal population? Yes No

Nationality, residency, or refugee/ asylum status? Yes No

Other characteristics? Yes No

Citation:

Comments:

b. Are different forms of identity documents or credentials provided for different populations?

Yes No

Citation:

Comments:

4. Enrollment in National ID credential program: Information collected and age of enrollment

Best Practice: Registration for an identity credential entails enrolment in the identity credential system and validation of identity. Enrolment involves capturing and recording key identity attributes from a person who claims a certain identity, which generally includes biographical data (e.g., name, date of birth, sex, etc.), and may include biometrics.³¹⁷

The Information captured at enrollment should be guided by the principle of proportionality and necessity - the principle that personal data should be relevant, limited and adequate to what is necessary in relation to the specified purposes of personal data processing. (See Chapter 10, Data Protection and Personal Privacy). If biometrics are collected, the law should state the type of biometrics collected, including any limitations or constraints on the type of biometrics that may be collected and how they are collected. In addition, because biometrics may be hard to capture on certain individuals (for example, manual laborers or the elderly may have worn fingerprints that cannot be captured clearly and iris scans may be difficult to capture on people with cataracts), there should be back-up measures in place for those individuals whose biometrics cannot be used in the system.³¹⁸

There is no best practice for the age of enrollment for a national ID credential. In many countries, particularly those that use biometrics, the age of enrollment is typically between the ages of 15 to 18 years because it has been difficult to reliably capture biometrics on the very young. However, this is changing as

³¹⁷ *Technical Standards for Digital Identity*, World Bank, 2017, page 3.

³¹⁸ United Nations, *Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems*, New York, 2019, Para. 443 - 446.

biometric technology improves.

Guidance: Describe the biographical information and biometrics, if applicable, captured at enrollment. If biometrics are collected, state any limitations on biometric collection and describe any back-up procedures for individuals whose biometrics cannot be captured or used in the system. State the age of enrollment. In the comments section, describe whether the law aligns with best practice; specifically address whether the information collected aligns with the principle of proportionality and necessity.

a. Information collected (biographical and biometric, including any back-up procedures):

Citation:

Comments:

b. Age of enrollment and procedures for later enrollment:

Citation:

Comments:

5. Validation: Birth Registration as basis for ID registration

Best Practice: Once a person has claimed an identity during ID credential enrolment, their identity is then validated by checking the attributes presented against existing data, including data in the civil register. The validation process ensures that the identity exists (i.e., that the person is alive) and is claimed by one person (i.e., it is unique in the database). In modern digital identity systems, uniqueness is ensured through a deduplication process using biometric data. To ensure that the identity exists, the claimed identity should be checked against data in the civil register.³¹⁹

The civil register should be the underpinning of a person's civil identification record. If there is no formal linking of the civil register and identity register, there are limited means to confirm the identity of those registered in the national identity system.³²⁰ In addition, national identification systems, which generally enroll people at older ages, cannot ensure that children's rights and services are properly supported through legal identity at birth or provide up to date data on this segment of the population for planning purposes.³²¹ Therefore, for those born in the country, proof of birth registration should be required in order to register for a national ID. For those born in the country that lack birth registration, the process of ID credential registration should concurrently facilitate delayed birth registration.³²² If refugees, migrants, stateless persons and other persons born outside the country do not have legally valid birth certificates from their country of origin, they should be provided alternative means to validate their identity and obtain identity credentials.³²³

³¹⁹ *Technical Standards for Digital Identity*, World Bank, 2017, page 4.

³²⁰ Principles of Legal Identity in the Context of the 2030 Agenda for Sustainable Development, Working Paper of the Identification for Development Programme – Series 1, United Nations, September 2018, paragraph 10.

³²¹ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 61.

³²² United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 447.

³²³ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 62.

Guidance: Describe how identity is validated during identity credential registration. Specifically, state whether proof of birth registration (e.g., a birth certificate) is required in order to register for an identity credential. If a person born in the country lacks birth registration, state whether birth registration is facilitated during identity registration. Describe the process for identity registration for migrants, refugees, asylum seekers, stateless persons and other foreign nationals. In the comments section, describe whether the law aligns with best practice and note any recommendations for regulatory reform.

- a. Describe how identity is validated for ID registration (including whether birth registration is required).

Citation:

Comments:

- b. For those born in the country that lack birth registration, is delayed birth registration facilitated concurrently with ID registration? If yes, describe.

Citation:

Comments:

- c. For migrants, refugees, asylum seekers, stateless persons and other foreign nationals, what documents are used to validate identity?

Citation:

Comments:

6. UIC assignment

Best Practice: As discussed in the Birth and Death Registration Chapter, for those born in the country in which a UIC is used, a UIC should be assigned at birth. However, if the assignment of a UIC at birth is a new requirement in a country, many people will have been born before the requirement comes into effect. In addition, there will be people that immigrate into a country. These people will not have had an opportunity to receive a UIC at birth.³²⁴

Therefore, legislation may require all individuals permanently residing within the territorial jurisdiction of the country, who were not previously assigned a UIC, to apply for a UIC by a certain age. For those not previously assigned a UIC, a UIC may be assigned at the time a person registers for a national ID credential. In countries that use a UIC, a UIC should not be denied based on citizenship, nationality or residency status, as it does not confer citizenship or any specific legal rights.³²⁵

³²⁴ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 440.

³²⁵ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems,

Guidance: For those who have not previously been assigned a UIC, state whether a UIC is assigned during ID credential registration. In the comments section, describe whether the law aligns with best practice and note any recommendations for regulatory reform.

-
- a. UIC assigned during ID credential registration for those who have not previously been assigned a UIC? Yes No.

Citation:

Comments:

7. Process for Information Sharing Between Local Registration Offices and National Level

Best Practice: Because there will be many identity registration offices throughout the country, there must be clear procedures for transferring information collected by local identity registrars to the central identity register on a regular basis. The legal framework should set timeframes for this transfer of information and steps should be taken to speed up information sharing in order to enable faster processing of identity registration and production of identity credentials.

Guidance: Describe the legal framework related to the transfer of information collected by local identity registrars to the central identity register. In the comments section, note any challenges to the timely and efficient sharing of information.

-
- a. Describe the process for transfer of information from local identity registrars to the central identity register, including timeliness.

Citation:

Comments:

8. Information available from credential

Best Practice: Common types of digital identity credentials fall into three categories: 1) something you know (e.g., a password), 2) something you have (e.g., an ID card, mobile phone or a cryptographic key), or 3) something you are (e.g., a fingerprint or other biometric data).³²⁶ Various types of technology may be used with these types of credentials. For example, an ID card may record a digital cryptographic key and/or biometric on an embedded computer chip or may have an encrypted 2D barcode containing a person's personal data and biometrics, either instead of or in addition to a chip. Mobile devices may have SIM cards with digital certificates. In some cases, identifying information (such as UIC and biometrics) may be stored in the cloud and a physical credential may not be issued.³²⁷

New York, 2019, Para. 440.

³²⁶ *Technical Standards for Digital Identity*, World Bank, 2017, page 4.

³²⁷ United Nations, *Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems*, New York, 2019, Para. 451.

Regardless of the type of credential, it is important that confidential information and information that may make an individual vulnerable to discrimination not be displayed on the face of the credential (in the case of an ID card) or be obtainable from the credential (e.g., chip, SIM technology) by those who have no legitimate interest in the information. Only limited information is necessary on the face of, or available from, the credential, particularly if a credential has biometrics, a PIN, or other authenticating method associated with it.

Because a UIC is used to access services, it should be closely guarded and protections put in place to protect against its unauthorized use. Placing a UIC on the face of an ID credential creates a risk and it is therefore recommended not to place the UIC on the face of ID credential. However, if a UIC is presented on the face of an ID credential, a second type of authentication (such as biometric match) should be required in order to use the UIC.

Guidance: Describe the type of credential and technology used. Describe what information is accessible to individuals and service providers presented with the credential as a form of identity authentication. State whether this information includes confidential or sensitive information. In the comments section, describe whether the law aligns with good practice and note any recommendations for regulatory reform.

a. Credential and technology used:

Citation:

Comments:

b. Information available from the credential (including whether UIC is on the face of the credential):

Citation:

Comments:

9. Authentication

Best practice: Authentication is the process of verifying the claimed identity against the registered identity information;³²⁸ in other words, proving a person is who they say they are. Authentication should not be confused with "authorization", which involves determining whether a person has a right to a particular service.³²⁹

Authentication may occur using one or more factors that, like credentials, generally fall into one of three categories—something you know, something you have, something you are.³³⁰ Authentication using these attributes can occur through various pathways. For example, a person with a smart card may also need to key in a Personal Identification Number (PIN), or match their fingerprints to those contained in a chip. A person using a mobile phone app may authenticate by use of a PIN, biometrics or a mobile signature. A

³²⁸ *Technology Landscape for Digital Identity*, World Bank, 2018, page 6.

³²⁹ *Technology Landscape for Digital Identity*, World Bank, 2018, page 7.

³³⁰ Other types of information, such as location data or device identity, may be used by an verifier to evaluate the risk in a claimed identity, but they are not considered authentication factors. Grassi, P., et. al, NIST Special Publication 800-63-3, *Digital Identity Guidelines*, page 12.

cloud-based system (like India's Aadhaar system) might rely on biometrics for authentication.³³¹

All systems are vulnerable to failure. Biometric authentication can sometimes fail to recognize an individual, even though they are who they say they are. A person may forget their PIN. Authentication failure might result in a risk of exclusion from key services. Therefore, no matter what type of authentication process is adopted, there should be alternative authentication procedures in case of authentication failure, such as mobile one-time password (OTP), alternative biometric, or authentication by a local authority.³³²

Guidance: Describe the authentication process used with a national ID credential. Describe any alternative procedures in case of authentication failure. In the comments section, describe whether the law aligns with good practice and note any recommendations for regulatory reform.

a. Authentication process and alternative procedures in case of authentication failure:

Citation:

Comments:

10. Retirement of Legal Identity

Best practice: Retirement of legal identity - including deactivation of a UIC and identity credential - upon death is important in order to prevent fraudulent use of the deceased's identity. An efficient and effective connection between the civil registration system and the identity management system is the best way to ensure that this deactivation occurs, through the transfer of death record information from the civil registration system to the identity management system. There may be other reasons for deactivation of a UIC or identity credential during a person's life, such as fraudulent use of the identity.³³³

After deactivation of a UIC and identity credential, identity records should be retained and permanently archived. Country practices vary on the reuse of a UIC after closure. In some countries a UIC is never reused; in others a UIC is not reused for at least 50 to 100 years after the person's death.³³⁴

Guidance: Describe whether and how a legal identity (including a national ID credential and UIC, if applicable) is retired upon death and for any other circumstances. Specifically address if there is an obligation for death registration information to be transferred from the civil registration authority to the national identity management system. In the comments section, describe whether the law aligns with best practice and note any recommendations for regulatory reform.

a. Process and circumstances for retiring a legal identity (including UIC and ID credential):

³³¹ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 461.

³³² United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 462-463.

³³³ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 464.

³³⁴ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para 465.

Citation:

Comments:

11. Fees and Resources

Best practice: There is no best practice regarding charging a fee for identity credential registration and credential issuance. Many countries charge a fee. However, if obtaining an identity credential is mandatory or essential for individuals to benefit from basic services, policy makers should consider providing the original identity credential free of charge or for a minimal fee. In addition, there should be a process for a fee waiver for those who cannot afford the fee. Fees may be charged to replace a lost identity credential.³³⁵

Public and private sector entities benefit from the authentication services provided by the identity management system. Therefore, some countries charge a fee to these entities for authentication services. Country policies vary on whether to charge government entities - such as the health care system, social services, and others - a fee for authentication services. In some countries, the identity management authority charges other government entities a fee for this service. In other countries, there is a policy of providing this service to other government entities free of charge. Private institutions, such as banks, that wish to use the identity management system authentication services generally are charged a fee.³³⁶

Any revenue generated by the identity management system should be retained to fund the system rather than going to the central treasury.³³⁷

Guidance: State the amount of fees charged to individuals for issuance of an identity credential, including fees for an original, renewal and duplicate credential. State the amount of fees charged to institutional users of authentication services, including government and private sector entities. State whether fees generated by the identity management system are retained to fund the system. In the comments section, describe whether the law aligns with good practice and note any recommendations for regulatory reform.

a. Fees charged to individuals for ID credential issuance (original, renewal, duplicate):

Citation:

Comments:

b. Fees charged to government and private sector users of authentication services:

Citation:

Comments:

³³⁵ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para 467.

³³⁶ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 468.

³³⁷ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 211.

- c. Is revenue generated by the identity management system retained to fund the system?

Citation:

Comments:

12. Qualifications of Registrars

Best Practice: The National Identity Registrar and local identity registrars hold significant power in validating and assigning legal identity through identity registration and retiring legal identity upon notification of death registration. Registrars may also collect fees, which may make them vulnerable to allegations of corruption. Therefore, it is important that there is a strong legal framework that governs the selection or appointment, qualifications, and proper conduct of identity registrars. To help ensure that ID services are provided in a professional manner, identity registrars should be adequately paid, full-time officials, who enjoy civil-service or public-service status, and are subject to the rules of conduct for civil or public servants.³³⁸

Guidance: Describe the legal framework related to identity registrars' selection or appointment, qualifications, and civil or public service status. These requirements are often contained in civil servant laws, regulations or policies. In the comments section, describe whether the law aligns with best practice and note any recommendations for regulatory reform.

- a. Describe the required qualifications, and appointment or selection process, for the National Identity Registrar.

Citation:

Comments:

- b. Describe required the qualifications, and appointment or selection process, for local identity registrars.

Citation:

Comments:

- c. Describe any rules governing proper conduct of identity registrars.

Citation:

Comments:

- d. Are identity registrars full-time and adequately paid, and have civil or public servant status?

³³⁸ United Nations, Guidelines on Legislative Framework for Civil Registration, Vital Statistics, and Identity Managements Systems, New York, 2019, Para. 242.

Citation:

Comments:

13. Process for hearing appeals

Best Practice: Decisions made by identity registrars can have legal consequences that may fundamentally impact a person's life. Reasonable minds may disagree about how to resolve certain difficult situations and therefore decisions made by identity registrars should be subject to administrative and judicial review. In many countries, before appealing to the courts, an individual must appeal a local official's decision to a higher administrative level, on up to the central level. This is referred to as "exhaustion of remedies" and serves two purposes. First, it allows the ID management agency the opportunity to correct the mistake without burdening the courts. Second, it creates a record of the administrative decision for the court to review. After appealing through administrative channels, up to the central level, an individual should be able to appeal to the courts if they feel they have not been able to obtain a satisfactory resolution of their issue. The legal framework should provide the right to appeal a decision by an identity registrar, a clear process by which to appeal, and time frames in which to appeal.³³⁹

Guidance: Describe any right to appeal the decision of an identity registrar, including the process by which and the authority to which a person may appeal, and the timeframe for appeal. In the comments section, describe whether the law aligns with best practice and note any recommendations for regulatory reform.

a. Is there a right to appeal the decision of an identity registrar? yes no

Citation:

Comments:

b. Must administrative remedies be exhausted before an appeal is filed in court?

yes no

Citation:

Comments:

c. Describe the appeal process and time frames.

Citation:

Comments:

³³⁹ United Nations, Guidelines on the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 528-530.

14. Monitoring and Evaluation

Best Practice: A performance-monitoring program is an integral part of identity management systems. Routine monitoring and inspection of an identity registrar's work is required in order to continue to improve the efficiency, effectiveness and quality of the systems.³⁴⁰ There should be a requirement that primary-level identity registration offices be routinely monitored and inspected, either by the central level authority or a mid-level office with supervisory power. If non-conformance to procedures is found, there should be protocols to improve performance, including additional training, warnings, and penalties for poor performance and failure to carry out duties, as well as incentives to encourage local registrars to fulfill their duties.³⁴¹ There should be clear procedures and penalties for instances of deliberate misconduct by identity registrars, including fraudulent registrations or inappropriate disclosures.³⁴²

Guidance: Describe procedures to monitor and inspect identity registration offices; procedures for correcting poor performance and failure to carry out duties, and procedures for penalizing deliberate misconduct by identity registrars, as well as any incentives to improve the performance of registrars. In the comments section, describe whether the law aligns with best practice and note any recommendations for regulatory reform.

a. Describe any routine monitoring and inspection procedures for identity registration offices.

Citation:

Comments:

b. Describe any procedures for correcting poor performance and/or penalizing misconduct by identity registrars.

Citation:

Comments:

c. Describe any other incentives to improve performance for identity registrars.

Citation:

Comments:

³⁴⁰ United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014. Para. 335; United Nations Guidelines for the Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, New York, 2019, Paras. 524-525.

³⁴¹ United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014. Paras. 338-339; United Nations Guidelines for the Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, New York, 2019, Paras. 524-525.

³⁴² United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014. Para. 326; United Nations Guidelines for the Legislative Framework for Civil Registration, Vital Statistics, and Identity Management Systems, New York, 2019, Paras. 531.

Chapter

11

Equal Access for LGBTI Individuals

Why it is important: Access to civil registration and identity registration is vitally important for all individuals as these systems establish and provide documentation of legal identity, which is essential for the exercise of human and civil rights and to benefit from public and private services. However, lesbian, gay, bisexual, transgender and intersex (LGBTI) often face exclusion from these systems, which have traditionally been built around certain assumptions and biases that are inclusive of cisgender heterosexual people and those who fit into binary sex and gender categories. To fulfil international human rights obligations, civil registration and identity registration systems should be reformed to be inclusive of LGBTI individuals.

Equal Access for LGBTI Individuals

INTRODUCTION: AN INCLUSIVE HUMAN RIGHTS-BASED APPROACH TO GENDER AND CRVSID

Civil registration, vital statistics and Identity management (CRVSID) systems are essential for the functioning of government, as these systems provide the basis for public policy and administrative planning. CRVSID systems are also essential for individuals, as these systems enable a person to prove who they are, as well as their civil or marital status. These systems form the basis for “legal identity”, defined by the UN Legal Identity Agenda as “the basic characteristics of an individual’s identity. e.g. name, sex, place and date of birth conferred through registration and the issuance of a certificate by an authorized civil registration authority following the occurrence of birth. In the absence of birth registration, legal identity may be conferred by a legally recognized identification authority; this system should be linked to the civil registration system to ensure a holistic approach to legal identity from birth to death. Legal identity is retired by the issuance of a death certificate by the civil registration authority upon registration of death.”³⁴³ Legal identity, which is a legal construct, is distinct from gender identity, which is a person’s internal and individual experience of gender (see full definition below). While distinct concepts, each individual is fully entitled to have their gender identity reflected in their legal identity.

Sexual orientation and gender identity are integral to every person’s dignity and humanity and must not be the basis for discrimination.³⁴⁴ Yet, lesbian, gay, bisexual, transgender and intersex (LGBTI) people³⁴⁵ continue to face discrimination, including in CRVSID systems. Legal requirements, de facto practices, and binary “sex” terminology used in CRVSID systems have resulted in the exclusion and stigmatization of members of the LGBTI community. Traditionally, CRVS and ID systems have been built around certain assumptions and biases that are inclusive of cisgender heterosexual people and those who fit into binary sex and gender categories. For example, civil registration systems have traditionally recorded “sex” at birth as either male or female; birth registration forms typically request information on the baby’s “mother” and “father”; and marriage registration forms require information on the “bride” and “groom.” All of these binary categorizations exclude more diverse family structures and non-binary individuals. Moreover, many ID laws throughout the world require invasive and often unwanted medical or psychological interventions for those who wish to change their sex or gender marker, with associated name change, on identity documents. These laws can result in individuals holding identity documents that are incongruous with their gender identity, which can result in a denial of essential services and cause mental distress or even violence. This chapter aims to highlight practices observed in CRVS and ID systems around the world that can lead to the exclusion and/or discrimination of LGBTI individuals, and recommends ways for legal frameworks to support more inclusive systems that align with international best practices and human rights obligations.

States must consider human rights obligations in the design and implementation of legal frameworks for CRVSID systems. Numerous global and regional international human rights conventions - including, but not limited to, the Universal Declaration of Human Rights; the Convention on the Rights of the Child (CRC); the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages; and the International Covenant on Civil and Political Rights (ICCPR), the American Convention on Human Rights and the European Convention on Human Rights - contain rights that are affected directly or indirectly by CRVSID systems.³⁴⁶ These rights include the right to register a birth, death, marriage and divorce; the right to one’s own identity; the right to life, health, and privacy; the right of the family to

³⁴³ United Nations Legal Identity Agenda website, available at: <https://unstats.un.org/legal-identity-agenda/>

³⁴⁴ Yogyakarta Principles, Introduction to the Yogyakarta Principles, page 6.

³⁴⁵ We recognize that different countries and cultures use different terms to describe people who have same-sex relationships or who exhibit non-binary gender identities (such as queer, hijra, meti, lala, skesana, motsoalle, mithli, kuchu, kawein, travesty, muxé, fa’afafine, fakaleiti, hamjensgara and two-spirit). We use the term LGBTI in this Chapter as short-hand to describe this diverse group of people.

³⁴⁶ See Guidelines on the Legislative Framework for Civil Registration, Vital Statistics and Identity Management, United Nations, 2019 (hereafter “UN GOLF”), Chapter 3, for a full list and explanation of international conventions containing rights that affect or are affected by civil registration and identity management systems,

protection; and the right of children to be cared for by their parents; among others.³⁴⁷ In addition, proof of legal identity is essential to the enjoyment of many fundamental rights, including the rights to vote, own property, work, migrate, receive an education, receive social security, and maintain an adequate standard of living.³⁴⁸ International courts, including the Inter-American Court of Human Rights and the European Court of Human Rights, have recognized that states that are Parties to international conventions have an existing obligation to respect, protect and fulfil the human rights contained in these conventions for all people in their country, including LGBTI people.³⁴⁹

To collate and clarify States' *existing obligations* under international human rights law to LGBTI people, the International Commission of Jurists and the International Service for Human Rights drafted the Yogyakarta Principles in 2007.³⁵⁰ The Yogyakarta Principles collate a broad range of human rights that are contained in various international conventions and are binding upon Parties to those conventions. The Principles analyze these binding human rights standards as they apply to sexual orientation and gender identity and provide detailed recommendations on measures to be taken to implement those standards and rights.³⁵¹ Although the Yogyakarta Principles themselves have not been put to vote by the UN General Assembly or other UN body, and therefore are not technically binding, taking the recommended actions will not only help States fulfill their existing human rights obligations, they will also benefit States by fostering fast, efficient, and effective administration of civil registration and identity management systems. Reducing the bureaucratic, and often invasive, hurdles faced by the LGBTI community when registering vital events and amending civil registration records will help to ensure that States have accurate and timely vital statistics. Similarly, eliminating hurdles in changing gender and name on identity documents will help to ensure that everyone has an accurate legal identity, known to the State, that is consistent across agencies and platforms. This benefits both individuals and governments.

As discussed in more detail below, in order to protect human rights and foster fair and efficient government administration, civil registration and identity management laws should at a minimum:

- Be based on self-defined gender identity and not require verification by others, including medical personnel;
- Eliminate sex and gender markers where not necessary and, where sex or gender markers continue in use, Include more than two sex or gender options for those who identify outside the binary categories of male and female;
- Establish an administrative process for changing gender and name in civil registration and identity documents and records that: is quick, transparent and accessible; is free or low cost; does not require medical or psychological interventions or diagnosis; has no minimum or maximum age; and does not discriminate, including based on marital or parental status;
- Establish a simple process for aligning gender and name across all other civil registration and government-issued identity documents after amendment of a foundational document, such as a birth certificate or national identity card;
- Protect the personal privacy of LGBTI persons; and
- Provide the same rights in marriage and divorce to same-sex couples and gender-diverse couples as to different sex couples.

This chapter covers the following topics:

1. Key Terms

³⁴⁷ U.N. GOLF, para. 118-142, citing the Universal Declaration on Human Rights; CRC; ICCPR; and Convention On Consent To Marriage, Minimum Age For Marriage And Registration Of Marriages; among others.

³⁴⁸ UNGOLF, para. 117.

³⁴⁹ *Inter-American Court Of Human Rights, Advisory Opinion OC-24/17, of November 24, 2017, Requested by the Republic of Costa Rica: Gender identity, and equality and non-discrimination of same-sex couples (ICHR Opinion OC-24/17)*.

³⁵⁰ In 2017, an additional set of 10 principles – Yogyakarta Principles plus 10 (YP+10) – were released. YP+10 recognizes the significant developments since the release of the Principles in 2007, both in the field of international human rights law and in the understanding of violations affecting persons of diverse sexual orientations and gender identities, as well as the often distinct violations affecting persons on grounds of 'gender expression' and 'sex characteristics'.

³⁵¹ Yogyakarta Principles, Introduction to the Yogyakarta Principles, page 7.

2. Birth Registration: Sex Marker Options For Child At Birth Registration And On Birth Certificates
3. Birth Registration: Right Of Parents To Be Recorded In The Birth Register With Their Self-Defined Gender Identity And Name
4. Identity Documents: Gender Options On Identity Documents
5. Identity Documents: Process For Amending One's Gender And Name On ID Documents (Including Birth Registration)
6. Identity Documents: Process For Aligning Gender And Name Across All Civil Registration And Identity Documents
7. Identity Documents: Number Of Times One Can Change Gender/Name
8. Identity Documents: Unique Identity Codes/Numbers (UIC/UIN)
9. Death Registration: Gender Options At Death Registration
10. Registration of Marriage and Civil Union
11. Registration Of Divorce And Dissolution Of Civil Union
12. Vital Statistics
13. Coordination And Integration Of Different Systems
14. Accountability and Enforcement

As explained in Chapter 1 of the CRVSID toolkit, the term “legal framework” includes legislation passed by the legislature or parliament, as well as implementing regulations, standard operating procedures, guidelines, and other implementing directives promulgated or adopted by government bodies. The term “law” is used broadly, to mean legislation or implementing regulations. The “legal framework” and “law” also include any judicial decisions that are binding upon the country, including decisions issued by the country’s highest court and any binding decisions issued by international or regional courts or tribunals, such as the European Court of Human Rights and the Inter-American Court of Human Rights. Before beginning a legal review, reviewers should collect and read these court decisions, as well as relevant laws and documents that make up the legal framework. For example, lawyers who are reviewing the legal framework of any country that is member of the Organization of American States (OAS) should be sure to review Inter-American Court of Human Rights Advisory Opinion OC-24/17,³⁵² as well as any other relevant court decisions.

1. Key Terms:

Best Practice: Clearly defined terminology is important for any law in order to ensure that the law is fully and commonly understood by all. Terminology used in CRVSID laws regarding sex, sexual orientation, gender, gender identity, and related concepts should be clearly defined.

The terms below are important for understanding CRVSID practices and how they may impact LGBTI people. A country’s CRVS laws may or may not include all the terms listed below. However, if any of the terms are contained in a law or other legal document (such as SOPs, instructions, or guidance), the term should be defined. Regardless of whether all these terms are used in the law, reviewers should be familiar with these terms in order to analyze and compare the law with best and good international practices. Unless otherwise noted, all definitions are from the United Nations GLOBE website.³⁵³ Other organizations and laws may define these terms slightly differently; however, the key concepts are the same.

- a. **Sex characteristics:** Each person’s physical features relating to sex, including chromosomes, gonads, sex hormones, genitals, and secondary physical features emerging from puberty.

³⁵² ICHR Advisory Opinion OC/24-17 of November 24, 2017 Requested by the Republic of Costa Rica, “Gender Identity, and Equality and Non-Discrimination of Same Sex Couples”, available at: https://www.corteidh.or.cr/docs/opiniones/seriea_24_eng.pdf

³⁵³ See UN GLOBE Resources/Training: International Organization for Migration, Full Glossary of Terms to describe sexual orientation, gender identity, gender expression and sex characteristics, updated November 2020, available at: <http://www.unglobe.org/resources>

- b. **Sex:** The classification of a person as having female, male and/or intersex sex characteristics. While infants are usually assigned the sex of male or female at birth based on the appearance of their external anatomy alone, a person's sex is a combination of a range of bodily sex characteristics.³⁵⁴
- c. **Intersex:** Intersex people are born with physical or biological sex characteristics, such as sexual anatomy, reproductive organs, hormonal patterns and/or chromosomal patterns, which do not fit the typical definitions of male or female. These characteristics may be apparent at birth or emerge later in life, often at puberty. Intersex people can have any sexual orientation and gender identity.³⁵⁵
- d. **Sexual orientation:** Each person's enduring capacity for profound romantic, emotional and/or physical feelings for, or attraction to, other people. Encompasses hetero-, homo-, bi-, pan- and asexuality, as well as a wide range of other expressions of sexual orientation. This term is preferred over the terms and phrases sexual preference, sexual behavior, lifestyle and way of life when describing an individual's attraction to other people. (Sexual orientation is not related to gender identity and sex characteristics.³⁵⁶)
- e. **Homosexual:** A person whose romantic, emotional and/or physical attraction is to people of the same gender. Note that, in English, homosexual may be considered an outdated clinical term that should be avoided, and gay and lesbian may be preferred. The term remains acceptable in many non-English-speaking contexts.
- f. **Heterosexual:** A person whose romantic, emotional and/or physical attraction is to people of a different gender.
- g. **Pansexual:** A person who has the capacity for romantic, emotional and/or physical attraction to people of any gender.
- h. **Lesbian:** A woman whose enduring romantic, emotional and/or physical attraction is to women.
- i. **Gay:** Men whose enduring romantic, emotional and/or physical attraction is to men; also, women who are attracted to other women.
- j. **Bisexual:** A person who has the capacity for romantic, emotional and/or physical attraction to people of more than one gender.
- k. **Asexual:** A person who may experience romantic or emotional attraction, but generally not sexual attraction.
- l. **Gender:** The socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for individuals based on the sex they were assigned at birth.
- m. **Gender identity:** Each person's deeply felt internal and individual experience of gender, which may or may not correspond with their sex assigned at birth or the gender attributed to them by society. It includes the personal sense of the body, which may or may not involve a desire for modification of appearance or function of the body by medical, surgical or other means.
- n. **Gender expression:** Gender expression is the way in which we express our gender through actions and appearance. Gender expression can be any combination of masculine, feminine and androgynous. For a lot of people, their gender expression goes along with the ideas that our societies deem to be appropriate for their gender. For other people it does not. People whose gender expression does not fit into society's norms and expectations, such as men perceived as 'feminine' and women perceived as 'masculine' often face harsh sanctions, including physical, sexual and

³⁵⁴ This definition of sex, from UN GLOBE and IOM, differs from the definition provided in the UN Principles and Recommendations for a Vital Statistics System (paragraph 113), which states: "Sex refers to the biological characteristic and it is needed to describe a newborn child, a decedent or a foetal death. Data should be categorized into "male" and "female", and in case of a foetal death, the category "unknown" is also appropriate." We note that the UN definition, with only a binary "male/female" option, is too restrictive to be inclusive of LGBTI individuals.

³⁵⁵ United Nations Free and Equal, Definitions, available at: <https://www.unfe.org/definitions/>

³⁵⁶ United Nations Free and Equal, Definitions, available at: <https://www.unfe.org/definitions/>

psychological violence and bullying. A person's gender expression is not always linked to the person's biological sex, gender identity or sexual orientation.³⁵⁷

- o. Transgender:** A term used by some people whose gender identity differs from what is typically associated with the sex they were assigned at birth. Transwomen identify as women but were classified as males when they were born, transmen identify as men but were classified female when they were born, while other trans people don't identify with the gender-binary at all. Some transgender people seek surgery or take hormones to bring their body into alignment with their gender identity; others do not. Being transgender does not imply any specific sexual orientation. Therefore, transgender people may identify as heterosexual, gay, lesbian, bisexual, etc.³⁵⁸
- p. Cisgender:** A person whose gender identity and the sex they were assigned at birth align.
- q. Gender transition:** The process of changing one's external gender presentation to be more in line with one's gender identity. Transition typically occurs over a long period of time and may include telling one's family, friends and co-workers, using a different name, pronoun and/or title, dressing differently, changing one's name and/or sex on legal documents, and undergoing hormone therapy and/or other treatment. In some countries, surgery is a requirement for legal gender recognition, which is a violation of UN human rights norms.

Guidance: State whether each term below (or similar term) is used in your legal framework and whether it is defined. If defined, state the definition contained in the legal framework. Provide the legal citation where the term is found. If other key terms are used in your legal framework, state the definition and provide the citation. In the comments sections, provide your analysis on whether a definition is needed, or whether the definition is clear and understood in the context of law. State how the definition could be improved if necessary.

a. Sex (or sex assigned at birth, sex characteristics, or similar term):

Used in law? _____ Yes _____ No Defined? _____ Yes _____ No

Definition:

Citation:

Comment:

b. Sexual orientation (or similar term):

Used in law? _____ Yes _____ No Defined? _____ Yes _____ No

Definition:

Citation:

Comment:

c. Gender (or gender identity, gender expression, or similar term):

Used in law? _____ Yes _____ No Defined? _____ Yes _____ No

Definition:

³⁵⁷ United Nations Free and Equal, Definitions, available at: <https://www.unfe.org/definitions/>

³⁵⁸ See IOM, Full Glossary of Terms to describe sexual orientation, gender identity, gender expression and sex characteristics, and United Nations Free and Equal, Definitions; and Human Rights Campaign, Glossary of Terms, available at: <https://www.hrc.org/resources/glossary-of-terms>

Citation:

Comment:

d. Other important terms (add as many lines as necessary):

Used in law? _____ Yes _____ No Defined? _____ Yes _____ No

Definition:

Citation:

Comment:

BIRTH REGISTRATION

2. Birth Registration: Sex Marker Options For Child At Birth Registration And On Birth Certificates

Best Practice:³⁵⁹ The legal framework should provide for a third sex-neutral sex-marker option at birth registration in addition to “male” and “female”, such as “X”, “intersex”, “undetermined”, or “unspecified”. While one of these three sex markers should be recorded at birth registration, law makers should consider removing sex markers from registrar-issued birth certificates and other certified copies of extracts of the register or, at minimum, provide an option to obtain a birth certificate without a sex marker.

a. Background

Traditionally, healthcare workers have assigned a child one of two “sex” options at birth – male or female. However, not all infants fit neatly within these distinct binary categories. According to experts, between 0.05% and 1.7% of the population is born with intersex traits.³⁶⁰ Intersex is a collective term used for many natural variations in sex characteristics and bodily characteristics that do not match strict medical definitions of male or female. These characteristics may be chromosomal, hormonal and/or anatomical and may be present to differing degrees. Many variants of sex characteristics are immediately detected at birth, or even before. Sometimes these variants become evident only at later stages in life, often during puberty. These are natural variations and intersex is not a medical condition.³⁶¹

The legal requirement to assign only “male” or “female” sex at birth forces those involved in certifying and registering a birth (which can include the parents or other family members responsible for the child, health professionals, and birth registration officials) to choose between “male” or “female”. This can have a profound impact on the fundamental rights of intersex people, whose sex characteristics cause them to fall outside of this binary classification. Many services and social benefits (such as ID card, passport, education enrolment, and health services) may only be obtained by providing a birth certificate. When a person’s birth certificate does not align with their gender expression, the service provider might question the authenticity of their identity and deny services. Further, the requirement to classify a child as either male or female at birth has caused intersex people to be subjected to cosmetic and other medically unnecessary surgery in infancy, resulting in irreversible sex assignment and often sterility, without informed consent of either the person in question or their parents or guardians.³⁶² This is a grave

³⁵⁹ Best Practices are based primarily on the Yogyakarta Principles. Where noted in footnotes, these best practices are also based upon the UN Principles and Recommendations for a Vital Statistics System and the UN Guidelines on a Legislative Framework for a Civil Registration, Vital Statistics and Identity Management.

³⁶⁰ Fact Sheet: Intersex, United Nations Free and Equal, available at: <https://www.unfe.org/learn-more/>

³⁶¹ Id.; The fundamental rights situation of intersex people, European Union Agency for Fundamental Rights, 2015, page 2, available at: <http://fra.europa.eu/en/publication/2015/fundamental-rights-situation-intersex-people>.

³⁶² Fact Sheet: Intersex, United Nations Free and Equal, at p.1.

violation of rights to physical and psychological integrity and violates Yogyakarta Principle 10 (The Right to Freedom From Torture and Cruel, Inhuman or Degrading Treatment or Punishment), Principle 18 (Protection from Medical Abuses) and Principle 33 (The Right to Bodily and Mental Integrity). As stated in Yogyakarta Principle 18, states must “ensure that no child’s body is irreversibly altered by medical procedures in an attempt to impose a gender identity without the full, free and informed consent of the child in accordance with the age and maturity of the child.”³⁶³

b. Sex markers at initial birth registration

Intersex people will remain vulnerable to discrimination as long as birth registers do not record sex appropriately. Therefore, laws should provide for a third sex-neutral sex-marker option, in addition to “male” and “female” at birth registration.³⁶⁴

Recognizing that providing a binary sex marker option (male/female) at birth is discriminatory against intersex individuals, many countries have amended their laws to allow a third sex-neutral option at birth registration.³⁶⁵ How this sex-neutral option is labeled varies across countries and jurisdictions. Some options include: “X” (Australia National Capital Territory³⁶⁶, Belgium³⁶⁷), “unspecified” (Australia Northern Territory³⁶⁸), “indeterminate” (New Zealand³⁶⁹), and “unknown”, “unclear” or “sex could not be determined” (United Kingdom, Latvia, Netherlands, respectively³⁷⁰). Germany and Austria include “divers”, which translate roughly as “other” or “miscellaneous”, as a third gender marker at birth registration.³⁷¹ Countries and jurisdictions might allow the use of additional terms as “gender-markers” later in life, when a person is able to define their gender identity (see Section 4 below). However, because infants cannot define their gender identity, the marker assigned at birth is, by necessity, a “sex marker”.

Some countries provide the option of leaving the sex marker blank, permitting a determination of sex at a later date. However, leaving the sex marker blank may violate rights, as gender identity is integral to every person’s dignity and humanity. Germany’s highest court recognized this in November 2017, ruling that requiring birth registration as either male or female or leaving the sex-marker blank violated the right to identity. The court ruled that the country must provide a third sex option in the nation’s birth register or dispense entirely with information on sex in civil status, which is why they introduced the “divers” option.³⁷² Recording “sex” is also important for statistical purposes, such as tracking infanticide, particularly in countries that value boy children over all others.

c. Who should determine what sex marker is recorded at initial birth registration?

Laws should also address who has the responsibility and right to determine which sex is recorded at birth registration.

There is no internationally recognized best practice regarding who has the right or responsibility to

³⁶³ Yogyakarta Principle 18.

³⁶⁴ UN GOLF, para. 302.

³⁶⁵ UN GOLF, paragraphs 299 – 302, Box 25.

³⁶⁶ Australia National Capital Territory Births, Deaths and Marriages Registration Regulations, Regulation 2, 3

³⁶⁷ The Brussels Times, Belgium to introduce ‘X’ as third, non-binary gender, 9 November 2020, available at:

<https://www.brusselstimes.com/belgium/139909/belgium-to-introduce-x-as-third-non-binary-gender-genderfluid-genderqueer-belgian-laws-transgender-justice-minister-vincent-van-quickenborne-minister-petra-de-sutter/>

³⁶⁸ Northern Territory of Australia, Births, Deaths And Marriages Registration And Other Legislation Amendment Act 2018, available at:

<https://legislation.nt.gov.au/en/LegislationPortal/Acts/~/link.aspx? id=6DC22FAECB4149C3944C0F6851C55751& z=z&format=assented>

³⁶⁹ New Zealand Government website at: <https://www.govt.nz/browse/passports-citizenship-and-identity/changing-your-gender/change-the-registered-sex-on-your-birth-certificate/>

³⁷⁰ The fundamental rights situation of intersex people, European Union Agency for Fundamental Rights, 2015, page 4, available at: <https://fra.europa.eu/en/publication/2015/fundamental-rights-situation-intersex-people>.

³⁷¹ PinkNews, Austria recognises third gender option in official documents, 14 May 2019, available at:

<https://www.pinknews.co.uk/2019/05/14/austria-third-gender-option-documents/>

³⁷² Germany: Personal Status Act Must Allow Third Gender Option for Intersex People, Library of Congress Global Legal Monitor, available at: [https://www.loc.gov/law/foreign-news/article/germany-personal-status-act-must-allow-third-gender-option-for-intersex-people/#:~:text=20%2C%202017\)%20In%20a%20decision,female%20or%20male%20gender%20at](https://www.loc.gov/law/foreign-news/article/germany-personal-status-act-must-allow-third-gender-option-for-intersex-people/#:~:text=20%2C%202017)%20In%20a%20decision,female%20or%20male%20gender%20at)

determine “sex” at birth. Currently, most countries’ laws do not directly address this topic. Instead, in countries where healthcare workers submit birth notification forms to the registrar, the physician or other birth attendant is de facto responsible for making the sex determination. In countries, where the family is the informant (without a medical notification of birth), the family is de facto responsible for making this determination.

The New Zealand Births, Deaths, Registration Act/Regulations is an example of a law that explicitly places responsibility on the medical professional alone, stating “indeterminate” can be used at birth registration only when a medical professional cannot determine a child’s sex to be male or female when they are born.³⁷³ Malta’s Gender Identity Law takes a different approach and allows parents to decide to postpone the recording in the civil register of the sex of their newborn so that the child may decide upon their gender as they mature.³⁷⁴

Because designating a sex-marker has important consequences in the life of the infant, policy makers should carefully consider who has the right and responsibility to make such a determination. Policymakers and law drafters should consider whether it is appropriate to place this responsibility on health professionals alone, parents alone, or health professionals in consultation with parents. There may be pros and cons to each of these approaches, which may vary depending on country context. Regardless of where the responsibility for this decision is placed, policymakers should recognize that the decision may be imperfect; therefore, changing one’s gender on one’s birth certificate should be a simple administrative process (see Section 5 below).

d. Time for determination

Countries that allow a non-determination of sex, such a “unknown sex” or “unclear sex”, should not require a determination of sex within a restrictive time frame. The time allowed for determination of sex should be unlimited. This is in keeping with Yogyakarta Principle 31, which guarantees every person the right to legal recognition without reference to, or requiring assignment or disclosure of, sex, gender, sexual orientation, gender identity, gender expression or sex characteristics. However, if and while countries impose time limits, these time frames should allow sufficient time for either: a) the sex characteristics of the child to become clear, and/or b) the child to determine their gender identity.

In the Netherlands “sex” can be recorded as “undetermined” at birth registration. The law provides for the amendment of “sex” within three months, based upon a medical statement. However, if sex still cannot be determined or no medical statement is provided, the designation remains “undetermined” until the person has decided upon their gender identity, with no set time limit.³⁷⁵ Since 2015, Malta has allowed parents to postpone the recording in the civil register of the sex of their newborn until the child’s 18th birthday, at which time the child must choose their legal gender.³⁷⁶

e. Naming conventions

Countries should consider how their naming laws impact birth registration and repeal provisions that require names to be sex-specific. Naming laws should allow names that are unisex or sex-neutral.

Some countries have naming laws that require a child’s given name to be gender-specific. For example, in Denmark parents must choose a given name for their child from a list of government pre-approved names, including names for girls and names for boys. Iceland similarly requires that names be chosen from a pre-approved list; however, since 2019, given names are no longer restricted by gender. Previously, the German Ministry of Interior issued instructions for registrars that male children may only have male names and female children only female names. In 2008, the German Federal Constitution Court ruled that parents have a constitutional right to name their child and overturned these instructions. Countries should review their naming laws, including registrar instructions, and repeal any provisions that

³⁷³ New Zealand Government website at: <https://www.govt.nz/browse/passports-citizenship-and-identity/changing-your-gender/change-the-registered-sex-on-your-birth-certificate/>

³⁷⁴ Malta Gender Identity, Gender Expression and Sex Characteristics Act, Section 7(4).

³⁷⁵ The fundamental rights situation of intersex people, European Union Agency for Fundamental Rights, 2015, page 4.

³⁷⁶ Malta Gender Identity, Gender Expression and Sex Characteristics Act, Section 7(4).

effectively force parents and/or registrars to make a binary sex determination through name choice.

Countries that traditionally use patronymics or matronymics should allow the use of a sex-neutral patronymic or matronymic at birth registration. A patronymic or matronymic is a component of a person's name based on one's mother or father, and usually reflects whether the person is a son or a daughter. For example, in Iceland, families generally use patronymic or matronymic surnames, with the children of a couple either adopting the father or mother's name with the suffix of '-son' for men and '-dóttir' for women, meaning 'son' and 'daughter'. So, a man by the name of Gunnar Egillson is the son of a man named Egill. If Gunnar named his daughter Helga, her full name would be Helga Gunnarsdóttir. Since June 2019, with the passage of the Gender Autonomy Act, Iceland now permits the suffix of '-bur' meaning 'child' for nonbinary residents of the country. Patronymics common in many parts of the world, including Russia, eastern Slavic countries, Arabic countries (usually as a middle name), and some Southeast Asian countries (including some populations in Malaysia, Singapore and Brunei). Matronymic, while less common, are in use some countries. The use of gender-based patronymics or matronymics can conflict with the practice of allowing birth registration with a sex-neutral marker. Therefore, countries that use gender-based patronymics or matronymics should consider allowing the use of a sex-neutral suffix at birth registration.

f. Sex markers on initial birth certificates

Lawmakers should consider removing sex markers from birth certificates or certified copies of extracts issued by the registrar. Alternatively, there should be an option to obtain a birth certificate or certified copy of an extract issued by the registrar without a sex marker.

While there is a legitimate government reason for tracking sex information for vital statistics, and therefore including "sex" in the birth register, there is less need to print "sex" on a birth certificate issued by the registrar. Birth certificates are required for numerous reasons – for example, obtaining a driving license or other ID card, opening a bank account, and voting. The right to benefit from these services are not dependent upon sex and therefore service providers do not need to know a person's sex. When sex markers are contained in birth certificates, transgender, gender-diverse and intersex people are forced to "out" themselves every time their birth certificate is requested. This can cause confusion, raise privacy concerns, and potentially lead to discrimination and denial of services, as service-providers may question the identity of the certificate holder if the sex-marker does not match the person's gender expression. Removal of sex markers from birth certificates alleviates these concerns. It may also relieve pressure on parents to choose a sex for an intersex child before the child is ready to self-identify their gender. There are few advantages for keeping the sex marker. "Sex" on a birth certificate does not help authenticate a person's identity in the way that, for example, a biometric would because "sex" only narrows down the population by approximately half.

In Latvia, sex is not included on birth certificates and in Germany, it is possible to get a birth certificate issued without a sex marker.³⁷⁷ Tasmania and the Canadian provinces of Ontario and Saskatchewan recently amended their laws to permit individuals to opt out of displaying a sex designation on their birth certificate.³⁷⁸

Guidance: Answer the questions below regarding assignment of a sex marker at birth registration and inclusion of sex markers on birth certificates. When looking for provisions regarding sex markers, be sure to review implementing regulations, forms and registrar instructions as well as legislation. In the comments section, discuss whether the legal framework aligns with best practice and any recommended amendments to the law.

³⁷⁷ The fundamental rights situation of intersex people, European Union Agency for Fundamental Rights, 2015, pages 4-5.

³⁷⁸ See, The Conversation, Explainer: why removing sex from birth certificates matters to gender diverse people, at: <https://theconversation.com/explainer-why-removing-sex-from-birth-certificates-matters-to-gender-diverse-people-105571> and ABC News, Tasmania makes gender optional on birth certificates after Liberal crosses floor, at: <https://www.abc.net.au/news/2019-04-10/birth-certificate-gender-laws-pass-in-tasmania/10989170>

-
- a. **Describe whether laws protect infants and children from medically unnecessary surgery intended to assign a sex at birth.**

Citation(s):

Comments:

- b. **Describe the sex marker options at birth registration.** If a third sex marker option is available, state what that is. State whether “sex” may be left blank at birth registration.

Citation(s):

Comments:

- c. **Describe who determines the sex marker of the child.**

Citation(s):

Comments:

- d. **Describe any time frames imposed for determination of sex of a child.**

Citation(s):

Comments:

- e. **Describe any naming conventions that require names to be sex-specific.** Describe any actions that have been taken to address sex-specific naming conventions.

Citation(s):

Comments:

- f. **Describe whether a sex marker is included on a birth certificate or certified copy of an extract issued by the registrar.** Note whether a person can opt-out of including a sex marker on a birth certificate or certified copy of an extract issued by the registrar.

Citation(s):

Comments:

3. Birth Registration: Right Of Parents To Be Recorded In The Birth Register With Their Self-Defined Gender Identity And Name

Best Practice: The parent or parents of a child should have the right to be recorded in the birth register and on a birth certificate with their self-defined gender identity and name. Countries should not require one male parent and one female parent, but rather allow a parent or parents to register a child, regardless of the parents' sex, sexual orientation, or gender identity or expression.

This right is grounded in Yogyakarta Principle 24, The Right to Found a Family, which states: "Everyone has the right to found a family, regardless of sexual orientation or gender identity. Families exist in diverse forms. No family may be subjected to discrimination on the basis of the sexual orientation or gender identity of any of its members." To implement Principle 24, "States shall:

B. Ensure that laws and policies recognise the diversity of family forms, including those not defined by descent or marriage, and take all necessary legislative, administrative and other measures to ensure that no family may be subjected to discrimination on the basis of the sexual orientation or gender identity of any of its members . . . ;

E. Take all necessary legislative, administrative and other measures to ensure that in states that recognise same-sex marriages or registered partnerships, any entitlement, privilege, obligation or benefit available to different-sex married or registered partners is equally available to same-sex married or registered partners;

F. Take all necessary legislative, administrative and other measures to ensure that any obligation, entitlement, privilege, or benefit available to different-sex unmarried partners is equally available to same-sex unmarried partners . . . ;

I. Issue birth certificates for children upon birth that reflect the self-defined gender identity of the parents;³⁷⁹

To actualize these rights, civil registration authorities will need to revise birth registration forms to replace the gendered categories "mother" and "father" with the gender-neutral term "parent(s)". Alternatively, registration forms could offer each parent the option of choosing a parental designation of "mother", "father" or simply "parent", and whether they choose to have that designation reflected on the birth certificate.

Civil registration authorities may wish to capture additional parental data, for statistical purposes only, regarding gender identity and sexual orientation, as this might provide useful statistical information on diverse family structures. If capturing such data, it should be sent anonymized to the statistics agency and not entered into the register, to protect personal privacy. (See Section 12 on Vital Statistics). Alternatively, civil registration and statistics authorities may decide to dispense with the gender-identity of parents altogether, as is done in New Zealand.

In New Zealand, the *birth certificate* contains the following information on the baby's parent(s):

- full name;
- date of birth;
- age at the time of the child's birth;
- place of birth;
- full name at birth (if not the full name on initial registration of the birth); and
- full name as registered on the initial registration of the birth.

The certificate does not reference the gender of the parents.³⁸⁰ In addition, the following statistical information regarding the baby's parent(s) is collected:

- the usual occupation, profession, or job;

³⁷⁹ Subsection (I) was added to Yogyakarta Principle 24 through the Yogyakarta Principles Plus 10.

³⁸⁰ New Zealand Births, Deaths, Marriages, and Relationships Registration (Prescribed Information) Regulations 1995, Regulation 6, available at: <https://www.legislation.govt.nz/regulation/public/1995/0183/latest/whole.html#DLM1811247> .

- the home address and contact details;
- whether a descendant of a New Zealand Maori (if known);
- the ethnic group or groups to which the parents belong;
- information to determine the parents' citizenship or residency status;
- information about the type of relationship (if any) between the parents at the time of the child's birth, and the date and place that the relationship was solemnized (if relevant); and
- the number of children (if any) born to the same parents.

Gender-identity of parent(s) is not collected for statistics purposes.

a. Adoption and surrogacy

These same gender-neutral forms should be used for registration of an adopted child or a child conceived through surrogacy. After a court approves an adoption, a new birth record reflecting the new parents' birth facts is prepared and, in some jurisdictions, the original birth record is sealed and kept confidential. The place and date of birth of the child remain unchanged in the new birth record, as well any unique identification code; only the parental information is changed, as well as the name of the child (if the parents so desire).³⁸¹ If a child is adopted from a foreign country, most countries have a process by which the adoptive parents may apply for a domestic birth certificate. This generally involves providing to a court a certified copy of the final adoption decree from the foreign country and a written request for a new birth certificate.³⁸² In keeping with Principle 24, the birth register entry and the new birth certificate issued after an adoption should contain the adoptive parent(s)' self-defined gender identity or no data field for gender identity, as discussed above.

Surrogacy is an arrangement whereby a woman agrees to carry a pregnancy for another person or persons who will become the newborn's parents after the birth. Country's laws regarding surrogacy vary greatly, from total banning of the practice, to allowing surrogacy with regulation, to allowing surrogacy de facto by virtue of having no laws on the subject. Detailing the complexities of surrogacy arrangements is beyond the scope of this document. However, generally, where legal, civil registration in surrogacy can be handled in one of two ways. In some countries, the intended parents are regarded as the legal parents from the moment of birth and are recorded in the birth register and on the birth certificate. In other countries, the gestational mother³⁸³ is recorded as the legal parent at birth. Within a specified time after the birth, the intended parents seek a court parental decree, much like an adoption process.³⁸⁴ In keeping with Principle 24 and the discussion above, registration of a child conceived by surrogacy, and the birth certificate after surrogacy procedures are complete, should contain the intended parent or parents' self-defined gender identity or no data field for gender identity.

Guidance: Answer the questions below regarding recording of parents' gender identity in the birth register and/or for statistical purposes. Note differences, if any, in the recording of parents' gender identity for birth registration of biological children and that of adoptive or surrogate children. In the comments section, discuss whether the legal framework aligns with best practice and any recommended amendments to the law.

-
- a. Describe whether the parent(s) of a child have a right to be recorded in the birth register and on the birth certificate with their self-defined gender identity and name. Address whether birth

³⁸¹ *Handbook on Civil Registration and Vital Statistics Systems: Management, Operation, Maintenance, Revision 1*, United Nations, 2018, paragraph 157.

³⁸² UN GOLF, para. 414.

³⁸³ Surrogacy can be "traditional surrogacy" (also known as partial surrogacy), wherein the eggs of the surrogate are used in the conception of the child; or "gestational surrogacy" (also known as full surrogacy), wherein the child is conceived through in vitro fertilization using the egg and sperm of the intending parents or other persons. The "gestational mother" is the woman who gave birth to the child.

³⁸⁴ Rutuja Pol, Proposing An International Instrument To Address Issues Arising Out Of International Surrogacy Arrangements, *Georgetown Journal of International Law*, pages 1311 – 1317, 1323.

registration forms and birth certificates use the terms “mother” and “father” or the gender-neutral “parent(s)”.

Citation(s):

Comment:

- b. If the register contains a data field with gender neutral term “parent(s)” (rather than “mother” and “father”), state whether information on the gender identity of the parent(s) is collected for statistical purposes.**

Citation(s):

Comment:

- c. Describe procedures for amendment of birth registration after adoption and surrogacy.**
Address whether the relevant forms and any amended birth certificate use the terms “mother” and “father” or the gender-neutral “parent(s)”. Address whether information on gender identity of the adoptive or intended parents (in the case of surrogacy) is collected for statistical purposes.

Citation(s):

Comment:

IDENTITY DOCUMENTS

4. Identity Documents: Gender Options On Identity Documents

Best Practice: States should consider eliminating the display of sex and gender markers on identity documents. If markers remain in use on identity documents, these markers should be gender markers, not sex markers. (As a reminder: Sex markers refer to markers that characterize a person’s physical sex characteristics, whereas gender markers refer to a person’s self-defined gender identity.) In addition, states should make available a multiplicity of gender marker options (at least three).

a. Elimination of sex and gender markers on ID documents

Everyone has the right to be recognized as a person before the law, as enshrined in Article 6 of the Universal Declaration on Human Rights and several other international human rights instruments. Legal identity is widely recognized to be fundamental to the exercise of human rights and to benefit from numerous government and private sector services.³⁸⁵ However, if the sex-marker on an identity marker does not match a person’s gender identity or gender expression, this can lead to discrimination and denial of services.

Recognizing that transgender and intersex persons often suffer due to the use of sex-markers on identity documents, Yogyakarta Principle 31, The Right to Legal Recognition, states: “Everyone has the right to legal recognition without reference to, or requiring assignment or disclosure of, sex, gender, sexual orientation, gender identity, gender expression or sex characteristics.” To implement Principle 31, the

³⁸⁵ UN GOLF, paragraph 117.

Principles require States to “[e]nsure that official identity documents only include personal information that is relevant, reasonable and necessary as required by the law for a legitimate purpose, *and thereby end the registration of the sex and gender of the person in identity documents* such as birth certificates, identification cards, passports and driver licenses, and as part of their legal personality.³⁸⁶ This aligns with the principles of proportionality and necessity contained in the UN *Personal Data and Privacy Principles* and the European Union General Data Protection Regulation (GDPR).

In keeping with this Principle, in recent years some countries have removed sex and gender markers from identity documents. For example, New Zealand³⁸⁷, Costa Rica³⁸⁸ and France³⁸⁹ have removed gender markers from driving licenses. The Netherlands will remove gender markers from national ID cards by 2025.³⁹⁰

b. Third gender option while gender markers continue in use

Under Principle 31, if or while markers continue to be used, those markers should be gender markers reflecting self-defined gender and not sex-markers reflecting sex assigned at birth and, states must make available a multiplicity of gender marker options.³⁹¹ This follows from Principle 3, the Right to Recognition Before the Law, which provides: “No one shall be subjected to pressure to conceal, suppress or deny their sexual orientation or gender identity.” To implement Principle 3, states must “ensure that procedures exist whereby all state-issued identity papers which indicate a person’s gender/sex — including birth certificates, passports, electoral records and other documents — reflect the person’s profound self-defined gender identity.”³⁹²

The International Civil Aviation Organization (ICAO), which sets global regulations for machine readable passports, allows for three gender categories: female, male, or “X” for unspecified.³⁹³ In keeping with this, many countries currently allow for “Male”, “Female”, or “X” gender markers on their passports and other identity documents, including: Argentina, Austria, Australia, Canada, Colombia, Denmark, Germany, Iceland, Ireland, India, Malta, Nepal, The Netherlands, and New Zealand.³⁹⁴ The X gender marker is the most common third gender option; but some countries provide for different third gender options. For example, Nepal provides the option of “O” for “other”, and India provides the option of “T” for Transgender on passports and “other” on voter ID cards.³⁹⁵ However, the problem with non-binary gender markers other than “X” is that they are not internationally recognized by current ICAO guidelines. Other countries are therefore not required to accept travel documents with gender markers other than F, M or X.³⁹⁶

Some experts state that providing only a third gender option may be insufficient to encompass the full range of gender diversity, including specific regional and cultural identities. Therefore, a more inclusive

³⁸⁶ Yogyakarta Principles plus 10, Principle 31A.

³⁸⁷ License To Be Yourself, Open Society Foundations, New York, 2014, page 20, available at <https://www.opensocietyfoundations.org/publications/license-be-yourself>.

³⁸⁸ Article 2 of Decree No. 9-2016, modified by Article 3 of Decree No 7-2018, available at: <https://tse.go.cr/pdf/normativa/cedulanuevascaracteristicas.pdf>

³⁸⁹ My ID, my identity? The impact of ID systems on transgender people in Argentina, France and the Philippines, Privacy International, 15 January 2021, available at: <https://privacyinternational.org/long-read/4372/my-id-my-identity-impact-id-systems-transgender-people-argentina-france-and>.

³⁹⁰ Netherlands Sees No Role for Gender Marker on ID Documents, Amnesty International, July 2020, available at: <https://www.hrw.org/news/2020/07/08/netherlands-sees-no-role-gender-marker-id-documents#:~:text=The%20Dutch%20government%20will%20no,against%20whether%20there%20is%20any>

³⁹¹ Yogyakarta Principles plus 10, Principle 31C.

³⁹² Yogyakarta Principle 3C.

³⁹³ International Civil Aviation Organization, Working Paper, TECHNICAL ADVISORY GROUP ON MACHINE READABLE TRAVEL DOCUMENTS (TAG/MRTD), TWENTY-SECOND MEETING, 2014, page 130, available at: https://www.icao.int/Meetings/TAG-MRTD/TagMrtD22/TAG-MRTD-22_WP03-rev.pdf.

³⁹⁴ How the letter X is changing the game for travelers — and what that could mean for the US, CNN, 17 March 2021, available at: <https://www.cnn.com/travel/article/countries-with-third-gender-x-passports/index.html>.

³⁹⁵ ILGA Europe, Non-Binary Gender Registration Models in Europe, September 2018, at p. 17, available at: <https://www.ilga-europe.org/resources/ilga-europe-reports-and-other-materials>

³⁹⁶ ILGA Europe, Non-Binary Gender Registration Models in Europe, September 2018, at p. 17.

approach would be to increase the options for people to self-define their gender identity.³⁹⁷ For example, when surveying for statistical purposes, New Zealand includes the option “Another gender (please specify)”.³⁹⁸ Accordingly, policy makers may wish to consider providing for more than three gender options on identity documents. If a country provides a multiplicity of gender marker options, ideally, the same options should be provided across identity documents in order to prevent confusion when a person presents multiple forms of identification. However, if a country provides options in addition to “M, F or X”, policy makers should consider how this aligns with ICAO standards and the ramifications for international travel.

Guidance: Answer the questions below regarding the use of sex or gender markers on national ID cards, passports, and driving licenses. The options might be found in legislation, implementing regulation or on the forms for registration/renewal. In the comments section, discuss whether the legal framework aligns with best practice and any recommended amendments to the law.

a. Mark whether the following identity documents include sex markers or gender markers, or neither:

- | | | | |
|-----------------------|------------------|---------------------|---------------|
| i. National ID card: | _____ Sex marker | _____ Gender marker | _____ Neither |
| ii. Passport: | _____ Sex marker | _____ Gender marker | _____ Neither |
| iii. Driving license: | _____ Sex marker | _____ Gender marker | _____ Neither |

Citation(s):

Comments:

b. If sex markers or gender markers are contained in identity documents, describe the sex markers or gender marker options available for use in each type of identity document (address national ID cards, passports, and driving licenses):

Citation(s):

Comments:

5. Identity Documents: Process For Amending One’s Gender And Name On ID Documents (Including Birth Registration)

Best Practice: Under Principle 31, The Right to Legal Recognition, everyone should have the right to change gendered information in identity documents, including gender marker and name, if gendered information is included in such documents. A person should be able to change their gender and name, including to a gender-neutral name, on identity documents through a simple, quick, and low-cost

³⁹⁷ License To Be Yourself, Open Society Foundations, page 21, available at <https://www.opensocietyfoundations.org/publications/license-be-yourself>

³⁹⁸ Stats NZ, Statistical standard for gender, sex, and variations of sex characteristics, available at: <https://www.stats.govt.nz/methods/statistical-standard-for-gender-sex-and-variations-of-sex-characteristics>

administrative process. Specifically, states must:

- i. Ensure a quick, transparent, and accessible mechanism that legally recognizes and affirms each person's self-defined gender identity;
- ii. Make available a multiplicity of gender marker options;
- iii. Ensure that no eligibility criteria, such as medical or psychological interventions, a psycho-medical diagnosis, minimum or maximum age, economic status, health, marital or parental status, or any other third party opinion, shall be a prerequisite to change one's name, legal sex or gender;
- iv. Ensure that a person's criminal record, immigration status or other status is not used to prevent a change of name, legal sex or gender."³⁹⁹

a. Quick, transparent and accessible:

To achieve a quick and accessible process, ideally, local civil and identity registrars should be authorized to amend the sex/gender marker on a government-issued identity document, including a birth certificate. A person should not be required to first obtain a court order before applying to the registrar, as court processes are time-consuming, burdensome and costly.⁴⁰⁰ In many countries and jurisdictions, a cisgender person need only apply to the registrar to change their name on a birth certificate and other identity documents. In keeping with principles of equality, in recent years, many countries and jurisdictions have repealed requirements to seek a court order in order to change one's name and gender, including Argentina, Australia, Bolivia, Brazil, the US state of California, Chile, Costa Rica, Denmark, Malta, New Zealand, and Uruguay among others. However, if a country must retain a court process due to constraints in their legal system, the court process should be quick, transparent, and accessible.

In addition, the cost of applying for a gender and name change should be low cost and equivalent to the cost charged to a cisgender person to change their name, and should not require the assistance of a lawyer or other costly legal expenses, regardless of whether an administrative or court process is used.

The registration process should be transparent and non-discretionary. The law should clearly present the legal requirements and documents to be presented to the registrar (or the court). There should be a timeframe for the registrar (or court) to approve the request if the stated legal requirements are met or, if not met, to request the needed information. If all requirements are met, the registrar (or court) should be required to approve the request. The registrar (or court) must not have discretion to deny a request when legal requirements are fulfilled.⁴⁰¹

The time period needed to effectuate an amendment to name and gender on identity documents for a transgender person should be equal to the time period needed to amend a name on identity documents for a cisgender person. Long waiting periods before the amendment is effectuated should be repealed. For example, in Denmark, a person can change their name and gender at the civil registrar by providing a declaration, but the registration is amended only after a 6-month waiting period, which is purportedly meant to ensure that the application is not based on impulse and to protect against potential abuse or fraud.⁴⁰² Forcing a person to maintain a legal identity that is incongruous with their self-determined gender-identity any longer than necessary violates the Yogyakarta principles.

b. No required medical or psychological interventions or diagnosis

Principle 3, The Right to Recognition Before the Law, makes clear: "No one shall be forced to undergo medical procedures, including sex reassignment surgery, sterilisation or hormonal therapy, as a requirement for legal recognition of their gender identity." Principle 18, The Right to Protection from Medical Abuse, further states that "a person's sexual orientation and gender identity are not, in and of

³⁹⁹ Yogyakarta Principles, Principle 31.B and 31.C.

⁴⁰⁰ UN GOLF, at paragraph 202.

⁴⁰¹ License to Be Yourself, Open Society Foundation, 2014, page 24.

⁴⁰² License to Be Yourself, Open Society Foundation, 2014, page 17.

themselves, medical conditions and are not to be treated, cured or suppressed.” In keeping with these principles and Principle 31, laws should not require a person to undergo any medical or psychological interventions in order to change their gender identity. Countries and jurisdictions that permit a person to self-define their gender identity without any medical or psychological intervention or diagnosis include, among others, Argentina (all ID documents), Costa Rica (all ID documents), Denmark (all ID documents), Malta (all ID documents), New Zealand (passports), the US states of California (driving license, social security card, and birth certificate) and New York (birth certificate), and the United States (passports).

c. No minimum or maximum age

There should be no minimum or maximum age requirements to change one’s gender on identity documents. According to experts, gender identity begins to take shape as early as three years old.⁴⁰³ As reflected in the Yogyakarta Principles, “in all actions concerning children the best interests of the child shall be a primary consideration and a child who is capable of forming personal views has the right to express those views freely, such views being given due weight in accordance with the age and maturity of the child.”⁴⁰⁴ Therefore, a minor who is capable of making an informed decision regarding changing their gender should be permitted to do so. As with other legal actions taken by a minor, states may require the consent of a guardian. However, there should be a process by which a minor (as defined by the country’s laws) can object to the unreasonable withholding of consent by a guardian. For example, Argentina’s Gender Identity Law permits a minor to seek a court order where consent is withheld.⁴⁰⁵

d. No discrimination, including based on marital or parental status

A person must not be prohibited from changing their gender identity because they are married or have children. In some countries, the law requires a person to divorce if they wish to change their gender and may prohibit the person from changing their gender if they have children. This violates Principle 31, as set out above. It also violates Principle 24, the Right to Found a Family, which recognizes that “families exist in diverse forms”.

e. Privacy/confidentiality

Yogyakarta Principle 6, The Right to Privacy, includes the right to choose to disclose or not to disclose information relating to one’s sexual orientation or gender identity. States are therefore obligated to “protect all persons from arbitrary or unwanted disclosure, or threat of disclosure of such information by others.”⁴⁰⁶ In furtherance of this obligation, States must “(e)nsure that changes of the name or gender marker, as long as the latter exists, is not disclosed without the prior, free, and informed consent of the person concerned, unless ordered by a court.”⁴⁰⁷ To protect privacy, States should not require the publication of a gender and name change even if, ordinarily, a name change request without gender change would be published.

Argentina and the United Kingdom provide examples of good privacy practices. Under Argentina’s Gender Identity Law, after a person’s gender and name is changed on their birth certificate, no other person can access the original record without authorization by the person concerned or judicial authorization. In addition, while name changes are ordinarily published in newspapers, publication is not required in the case of a gender change.⁴⁰⁸

Under the United Kingdom’s Gender Recognition Act 2004, it is an offense, punishable by the highest level fine, for a person who has acquired protected information about a trans person’s gender recognition application or previous gender to disclose that information to another person. The provisions cover protected information acquired in an official capacity by civil servants, current and prospective employers

⁴⁰³ Mayo Clinic, Children and gender identity: Supporting your child, available at: <https://www.mayoclinic.org/healthy-lifestyle/childrens-health/in-depth/children-and-gender-identity/art-20266811>

⁴⁰⁴ Yogyakarta Principles, Preamble; see also Principle 24.D.

⁴⁰⁵ Argentina Gender Identity Law, Article 5, available at: <https://tgeu.org/argentina-gender-identity-law/>

⁴⁰⁶ Yogyakarta Principle 6.F.

⁴⁰⁷ Yogyakarta Principles plus 10, Principle 6.H., p.18.

⁴⁰⁸ Argentina Gender Identity Law, Article 9, available at: <https://tgeu.org/argentina-gender-identity-law/>

and those providing professional services. In addition, when applying for a job where vetting is required, there is an administrative procedure that enables transgender people to be security-vetted by the Criminal Records Bureau (CRB) without having to disclose previous names to an employer. The applicant can simply provide their prospective employer their current name and the CRB will search records under their current and previous name without ever disclosing the change of gender/name to the employer. There are only limited circumstances under which gender change information may be disclosed, including consent and court order.⁴⁰⁹

A change of gender marker should remain confidential even after a person's death. Note, however, that laws regarding the confidentiality of autopsy reports might conflict with this goal. Some countries and jurisdictions make autopsy reports available to the public, as this allows the public to scrutinize health trends on unnatural deaths. Other countries treat autopsy reports as confidential health information, available only to those with a legitimate interest. Autopsy reports contain a great deal of information and might include the physical characteristics of the body and genitals, if relevant to the case or necessary to identify the deceased. Therefore, if a death is referred to the medicolegal death investigation system (MLDI) for autopsy, and the country or jurisdiction makes autopsies available to the public, a change of gender might inadvertently be revealed. (See the MLDI toolkit chapter for more on confidentiality of autopsy reports.)

f. Criteria for changing gender and name is aligned across agencies

The above requirements should apply equally to all government agencies that issue identity documents and the criteria for amending gender and name on various identity documents should be aligned across agencies.

Some countries have different criteria for amending gender and name on various identity documents. For example, there may be more stringent and onerous criteria for amending a birth certificate than a passport. As a result, transgender people may hold incongruous identity documents. This can cause confusion and potentially discrimination and refusal of services, as service providers may refuse to authenticate the identity of a holder of incongruous identity documents. Therefore, the processes across agencies should employ similar criteria.

Guidance: Answer the questions below regarding the process for changing one's gender and name on identity documents, including birth certificate, national ID card (if one exists), passport, driving license, and any other notable government issued identity documents (if expressly addressed in the law). Note any difference in procedures for changing gender and name on these various identity documents. In the comments section, discuss whether the legal framework aligns with best practice and any recommended amendments to the law.

a. Describe whether a registrar (or other equivalent government administrative official) can approve a change of name and gender on identity documents. State specifically: 1) whether a person can request such a change from a registrar without a court order, 2) whether the registrar must approve an application that meets requirements or whether the registrar has discretion to reject an application, and 3) whether a registrar must seek higher-level approval before making the requested change. Specifically address the process for changing gender and name on the following identity documents, noting any different processes.

- i. Birth certificate:
- ii. National ID card:
- iii. Passport:

⁴⁰⁹ United Kingdom, Gender Recognition Act, Article 22, available at: <https://www.legislation.gov.uk/ukpga/2004/7/contents>

- iv. Driving license:
- v. Any other notable government-issued ID documents and processes (such as voting card, health card, etc.)

Citation(s):

Comments:

b. Describe any waiting periods and fees (including legal fees) for changing gender and name on identity documents. Specifically address waiting periods for the following identity documents, noting any differences in waiting periods.

- i. Birth certificate:
- ii. National ID card:
- iii. Passport:
- iv. Driving license:
- v. Any other notable government-issued ID documents and processes (such as voting card, health card, etc.)

Citation(s):

Comments:

c. Are medical or psychological interventions required to change gender and name on identity documents? Specifically address any required interventions for the following identity documents, noting any differences.

- i. Birth certificate:
- ii. National ID card:
- iii. Passport:
- iv. Driving license
- v. Any other notable government-issued ID documents and processes (such as voting card, health card, etc.)

Citation(s):

Comments:

d. Describe any minimum or maximum age requirements for requesting a gender and name change on identity documents. If parental or guardian consent is required for a minor, state whether withholding of consent can be challenged in court or administratively. Specifically address any age requirements for the following identity documents, noting any different requirements.

- i. Birth certificate:
- ii. National ID card:

- iii. Passport:
- iv. Driving license:
- v. Any other notable government-issued ID documents and processes (such as voting card, health card, etc.)

Citation(s):

Comments:

e. Describe any restrictions or requirements based on marital or parental status. Specifically address restrictions or requirements for the following identity documents, noting any differences.

- i. Birth certificate:
- ii. National ID card:
- iii. Passport:
- iv. Driving license:
- v. Any other notable government-issued ID documents and processes (such as voting card, health card, etc.)

Citation(s):

Comments:

f. Are changes of gender and name on identity documents kept confidential? Specifically address who may access the information regarding change of gender (and accompanying name change) in government databases. Also address whether the law prohibits disclosure of gender/name information to third parties without consent of the individual or a court order. Specifically address confidentiality rules for changes of gender/name in the following registers and databases, noting any differences in rules.

- i. Change of gender/name in the birth register:
- ii. Change of gender/name in the National ID card register:
- iii. Change of gender/name in the Passport database:
- iv. Change of gender/name in the Driving licenses database:
- v. Change of gender/name in any other notable government databases relating to ID documents (such as voting card, health card, etc.)
- vi. Autopsy reports:

Citation(s)

Comments:

6. Identity Documents: Process For Aligning Gender And Name Across All Civil Registration And Identity Documents

Best Practice: After a person amends their gender and name on one identity or civil registration document (such as a national ID card or a birth certificate), there should be a simple and quick process for aligning gender and name across all other civil registration documents (including marriage records) and government issued identity documents (such as driving license, passport, voter ID, national health card, etc.), regardless of whether those documents are issued at the national or sub-national level.

An amendment of a foundational document, such as a birth certificate or national ID card, should trigger a process for amendment of other identity documents, regardless of whether a paper-based or electronic system is in use. This is possible if the criteria for changing gender and name on various identity documents issue, as well as gender-marker options, are aligned across agencies, as discussed above.

The Argentina Gender Identity Law provides an example of good practice. There is a simple one-step process to request a change of gender and name by applying to the National Bureau of Vital Statistics, which informs the Civil Registrar to issue a new birth certificate and national identity card.⁴¹⁰ The National Bureau of Vital Statistics also informs the appropriate Electoral Registry, the National Registry of Criminal Records, and other government bodies of the change of gender and name so that these databases are updated accordingly. Note that this type of requirement – for one agency to inform other agencies – can be implemented in paper-based systems as well as electronic systems.

In countries that maintain an electronic population register, an amendment of gender and name on a birth certificate and/or a national ID card should be shared with the popular register, which can then share the information to all other databases to which it is linked. (For more on Populations Registers, see Toolkit Chapter 10).

Guidance: Answer the question below regarding aligning one’s gender and name across all government-issued identity documents. In the comments section, discuss whether the legal framework aligns with best practice and any recommended amendments to the law.

-
- a. **Describe the process, if any, for aligning one’s gender and name across all other government-issued identity documents after a change of gender and name in a foundational identity document, such as a birth certificate or a national ID card.** If your country maintains a population register, address whether the population register is used to align gender and name across government databases.

Citation(s):

Comments:

7. Identity Documents: Number Of Times One Can Change Gender/Name

Best practice: There is no established international best practice on the number of times a person can change one’s gender and name on identity documents. (Similarly, there is no international best practice on name change alone. Country practices and restrictions vary greatly, from prohibiting name changes entirely, to regulating the number of name changes, to allowing unlimited name changes.)

⁴¹⁰ Argentina Gender Identity Law, Section 10, available at: <https://tgeu.org/argentina-gender-identity-law/>

Practices differ across countries regarding the number of times a person may change their gender and name. In Argentina, there is a simple administrative process to change one’s gender and name for the first time. However, if a person wishes to change their name and gender a second time (or more) they must seek a judicial order.⁴¹¹ In Malta, a person may change their gender on their birth certificate only once, unless the person was a minor when the first change was made.⁴¹² In the State of Victoria, Australia, a person may not change their gender on their birth registration more than once in a 12-month period.⁴¹³

Guidance: Answer the question below regarding the number of times a person may change their gender and name on identity documents. In the comments section, discuss whether the legal framework aligns with best practice and any recommended amendments to the law.

-
- a. **Describe any limits on the number of times a person may change their gender and name on birth registration and state-issued identity documents.** Address birth certificates, national ID cards (if applicable), and passports.

Citation(s):

Comments:

8. Identity Documents: Unique Identity Codes/Numbers (UIC/UIN)

Best Practice: Unique Identity Codes (UICs) should not contain a character that identifies a person’s sex.

A unique Identity code (UIC) is a numeric or alphanumeric character sequence assigned to an individual for life. Some countries refer to this unique character sequence as a Unique Identity Number (UIN), rather than a UIC. A person may have only one UIC/UIN, and each UIC/UIN is assigned to only one individual. Use of a UIC/UIN is a common way to share information across databases. In some countries, the number of the National ID card (NID) serves this function. For simplicity, we refer to this unique character sequence as a UIC.

The content of the alphanumeric characters in the UIC has important implications for security. When UICs were first introduced decades ago, character sequences were based on personal information, such as date and place of birth, and sometimes sex (e.g., 1 assigned for male and 0 assigned for female). However, character sequences based on personal information may be easily comprehended, allowing the information and/or the UIC to be used fraudulently or for discriminatory purposes (for example, if a person can be identified as a refugee based on the UIC).⁴¹⁴ Therefore, randomly generated unintelligible sequences are now preferred.

For countries that still include character sequences based on personal information in their UIC/UIN, it is particularly important that the sequence not contain a character that identifies a person’s sex or gender. This can lead to discrimination against those whose gender expression does not match the sex or gender character in the sequence, or against those whose sex or gender character identifies them as trans, intersex or “other”. (For more on the assignment, use, and retirement of UICs, see Toolkit Chapter 4 – Birth and Death Registration – Section 10).

Guidance: Answer the question below regarding UIC/UINs sequences. In the comments section, discuss

⁴¹¹ Argentina, Law on Gender Identity, Article 8.

⁴¹² Malta Gender Identity, Gender Expression and Sex Characteristics Act , Article 8(2).

⁴¹³ Victoria, Australia, Births, Deaths and Marriages Registration Act 1996, Sections 30A and 30B, available at: <https://www.legislation.vic.gov.au/in-force/acts/births-deaths-and-marriages-registration-act-1996/039>

⁴¹⁴ UN GOLF, para. 441.

whether the legal framework aligns with best practice and any recommended amendments to the law.

- a. **Does the UIC (or other unique government-issued ID number in use in the country) have a character in the sequence that identifies a person’s sex or gender?**

Citation(s):

Comments:

DEATH REGISTRATION

9. Death Registration: Gender Options At Death Registration

Best Practice: A decedent’s self-defined gender identity should be recorded in the medical certificate of cause of death, death registration record and death certificate.

In many countries, the reported sex of a decedent is determined by the physician that completes the medical certificate of cause of death (MCCD), or the coroner, medical examiner or physician working with medicolegal death investigation authorities (See Chapter 12 for more on medicolegal death investigation). However, a decedent’s physical characteristics may not correlate with the decedent’s self-identified gender, as only a small percentage of self-identified transgender individuals undergo gender reassignment surgery. In addition, some of the decedent’s identification documents may differ from that indicated at birth registration. In these circumstances, physicians face challenges in determining the appropriate sex to enter on the MCCD.

To address this situation, some jurisdictions, including the US state of California and the District of Columbia,⁴¹⁵ have adopted legislation that provides a process for ensuring that the decedent’s gender identity is reflected in the MCCD, death registration record, and death certificate. The California law requires the certifying physician to record the decedent’s sex to reflect the decedent’s gender identity (as female, male, or nonbinary) as reported by the informant (e.g., a family member or anyone who can supply the necessary information, including funeral director or health facility). However, if the physician is presented with certain specified legal documents (such as birth certificate, driver’s license, or passport) showing a different gender identity, the physician must record the gender reflected in those documents. Alternatively, if the specified documents are not presented, the physician should reflect the gender indicated by the person or a majority of persons with control over the disposition of the remains.⁴¹⁶

The District of Columbia law takes a different approach. That law allows an individual to pre-designate their gender identity or expression with the Registrar before the individual’s death. If the decedent did not pre-designate their gender identity, the law allows any person to file a petition in court seeking an order to amend the gender on the MCCD and death certificate based on evidence presented, such as testimony, documentation that memorializes the decedent’s gender transition, or any other evidence of the decedent’s gender identity or expression. If a court rules in favor of the petitioner seeking to amend the gender on the MCCD and death certificate, the original MCCD and death certificate shall be sealed and made available only upon a court order, in order to protect the privacy of the deceased and their

⁴¹⁵ See D.C. Law 21-258. Death Certificate Gender Identity Recognition Amendment Act of 2016, available at: <https://code.dccouncil.us/dc/council/laws/21-258.html>

⁴¹⁶ See California Assembly Bill No. 1577 (as amended by Bill No. 439), available at: https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=20210220AB439

family.⁴¹⁷

Guidance: Answer the question below regarding registration of sex or gender at death registration. In the comments section, discuss whether the legal framework aligns with best practice and any recommended amendments to the law.

-
- a. **Does the law provide a process to ensure that a decedent’s MCCD, death registration record and death certificate reflect the decedent’s self-determined gender identity or gender expression?**

Citation(s):

Comments:

REGISTRATION OF MARRIAGE AND DIVORCE

10. Registration of Marriage and Civil Union

Best Practice: The United Nations has stated unequivocally: “States have a positive obligation to provide legal recognition to couples, regardless of sexual orientation, gender identity and sex characteristics, as well as to their children. Legal recognition may take various forms, ranging from civil unions and civil partnerships to marriage.”⁴¹⁸ The UN position is echoed in Yogyakarta Principle 24, The Right to Found a Family, which states that: “Everyone has the right to found a family, regardless of sexual orientation or gender identity. Families exist in diverse forms. No family may be subjected to discrimination on the basis of the sexual orientation or gender identity of any of its members.” To implement these obligations, the UN has called on countries to “repeal any existing laws that regulate marriage and civil unions based upon sexual orientation, gender identity and sex characteristics.”⁴¹⁹

To actualize these rights, civil registration authorities will need to revise marriage registration forms to replace the gendered categories “bride” and “groom” with a gender-neutral term such as “spouse” or “partner” or other term that is gender neutral in the language of the country. Alternatively, registration forms could offer each spouse or partner the option of choosing a designation of “bride”, “groom” or simply “spouse/partner” or other gender neutral term, and whether they choose to have that designation reflected on the marriage certificate.

Civil registration authorities may wish to capture additional data regarding the gender identity of each spouse/partner, as this might provide useful statistical information on diverse family structures. If capturing such data, gender information should reflect the self-defined gender identity of each of the spouses/partners and allow for at least three gender options. Further, gender identity data should be sent anonymized to the statistics agency and not entered into the register, to protect personal privacy. Alternatively, the civil registration and statistics authorities may decide to dispense with collection of gender-identity of spouses and partners altogether.

Guidance: Answer the question below regarding registration of marriage/civil union and recording of

⁴¹⁷ See D.C. Law 21-258. Death Certificate Gender Identity Recognition Amendment Act of 2016, Sec. 2(b) (Amending Sec. 12(4)(A)).

⁴¹⁸ Born Free and Equal, United Nations Human Rights Office of the High Commissioner, 2019 (Second Edition), page 73, available at: <https://www.ohchr.org/en/issues/discrimination/pages/bornfreeequalbooklet.aspx>

⁴¹⁹ Born Free and Equal, United Nations Human Rights Office of the High Commissioner, 2019 (Second Edition), page 73, available at: <https://www.ohchr.org/en/issues/discrimination/pages/bornfreeequalbooklet.aspx>

spouses' or partners' gender information upon registration of a marriage or civil union. In the comments section, discuss whether the legal framework aligns with best practice and any recommended amendments to the law.

-
- a. Does the law provide legal recognition to couples regardless of sexual orientation, gender identity and sex characteristics?** Describe whether legal recognition is through marriage, civil union, or other legal partnership.

Citation(s):

Comments:

- b. Describe the terms used in the marriage/civil union register and on the marriage/civil union certificate for the spouses/partners.**

Citation(s):

Comments:

- c. Describe whether information on gender is collected during registration.** If yes, describe whether the information reflects the self-defined gender identity of each of the parties. Also state whether the information is anonymized and used for statistical purposes only, or whether the information is entered into the register.

Citation(s):

Comments:

11. Registration Of Divorce And Dissolution Of Civil Union

Best Practice: Under Yogyakarta Principle 24, states that recognize same-sex marriages or registered partnerships should ensure that “any entitlement, privilege, obligation or benefit available to different-sex married or registered partners is equally available to same-sex married or registered partners.” Accordingly, when same-sex married or registered partners divorce or dissolve their civil union, they should have a right to the same entitlements, privileges, obligations, and benefits available to different-sex married or registered partners.

For registration purposes, a divorce or dissolution of a registered partnership of a same-sex couple, or a couple where one or more partners is gender non-binary, should be registered in the same manner as a divorce or dissolution of partnership of a different-sex couple. Specifically, the court that issues the divorce or dissolution order should submit the information about the couple and order to the registrar, so that the information to be matched against the marriage or registered partnership register. (See Toolkit Chapter 7 for more on registration of marriage and divorce).

As with marriage, either the gendered terms “bride” and “groom” should be replaced with a gender-neutral term, or the spouses or partners should be offered the option of choosing “bride”, “groom” or a

gender-neutral term, to be used in the register and in the divorce decree or divorce certificate.

If gender information is collected during registration of the divorce or dissolution, the information should reflect the self-defined gender identity of each of the parties and allow for third gender options. This information should be sent anonymized to the statistics agency to protect privacy and not entered into the register in order to protect privacy.

Guidance: Answer the question below regarding registration of divorce/dissolution of civil union and recording of spouses' or partners' gender information upon registration of a divorce or dissolution of civil union. In the comments section, discuss whether the legal framework aligns with best practice and any recommended amendments to the law.

- a. Describe how divorce or dissolution of a registered partnership of a same-sex couple is registered.** Address whether registration of the divorce or dissolution is registered in the same manner as different-sex couples.

Citation(s):

Comments:

- b. Describe the terms used for the spouses/partners on the divorce decree or certificate.**

Citation(s):

Comments:

- c. If information on gender is collected during registration, state whether the information must reflect the self-defined gender identity of each of the parties and allow for third gender options.** Also state whether the information is sent anonymized to the statistics agency or entered in the register.

Citation(s):

Comments:

VITAL STATISTICS

12. Vital Statistics

Best Practice: Sex and/or gender information should be collected for vital statistics when relevant and the compilation and generation of vital statistics should reflect and be inclusive of the multiplicity of sex and gender markers in use.

Traditionally, "sex" has been an important data field for many types of vital events. For example, a newborn's "sex" is recorded at birth registration and a decedent's "sex" is recorded at death registration.

Information on “sex” is indirectly collected at marriage registration, with collection of information on “bride” and “groom”. Similarly, information on the “sex” of a newborn’s parents is indirectly collected through collection of information on “mother” and “father”. In keeping with the Yogyakarta principles, countries should record a person’s self-defined gender identity, instead of “sex”, when collection of “gender” is the relevant legal and/or statistical topic, as discussed in the above sections. However, in some instances, such as birth registration and collection of information regarding “sex assigned at birth”, “sex” remains a relevant statistical topic and should be collected.

The collection of information on sex, and sexual orientation and gender identity (SO/GI) can provide valuable information for governments. There is mounting evidence of LGBTQI health inequities driven by stigma, discrimination, and violence; yet many aspects of LGBTQI health and their determinants are understudied.⁴²⁰ The collection of SO/GI data through civil registration can help fill these research gaps. For example, some experts recommend SO/GI information should be systematically recorded at death registration because current lack of data on SO/GI limits identification of mortality disparities in LGBTI people.⁴²¹ Therefore, where sex and SO/GI data are useful and relevant for vital statistics and other research, such data should be collected.

However, the collection of sex and SO/GI information may not always be necessary. Therefore, civil registration and statistics agencies should provide guidance on when the collection of sex and/or gender information is relevant and necessary. An example of such guidance can be found on the [Statistics New Zealand website](#).⁴²²

Finally, the sex/gender terms used in the collection of data at birth, marriage and death registration should align with the terms used in the generation of vital statistics. In addition, if SO/GI information is collected through civil registration, the information need not be recorded in the register, in keeping with privacy principles. Rather, the data should be anonymized and sent to the national statistics agency for vital statistics tabulation. Tabulation tables should be revised to include tabulation by SO/GI where relevant. (For more on Vital Statistics, see Toolkit Chapter 8.)

Guidance: Answer the questions below regarding recording of sex and SO/GI information for purpose of vital statistics and the tabulation of vital statistics. In the comments section, discuss whether the legal framework aligns with best practice and any recommended amendments to the law.

-
- a. Describe any guidance developed by the statistics agency on whether and when to collect sex and SO/GI information for purposes of vital statistics.**

Citation(s):

Comments:

- b. Describe whether vital statistics tabulation tables include tabulation by gender instead of, or in addition to, sex where relevant.**

Citation(s):

⁴²⁰ Advancing LGBTQI Health Research, The Lancet, Vol. 397, May 29, 2021, pp 2031- 233, available at: [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(21\)01057-6/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(21)01057-6/fulltext)

⁴²¹ Ann P. Haas, Andrew Lane, and on behalf of the Working Group for Postmortem Identification of SO/GI, Collecting Sexual Orientation and Gender Identity Data in Suicide and Other Violent Deaths: A Step Towards Identifying and Addressing LGBT Mortality Disparities, LGBT Health, March 2015, pp. 84-87, available at: <https://www.liebertpub.com/doi/10.1089/lgbt.2014.0083>

⁴²² Stats NZ, Statistical standard for gender, sex, and variations of sex characteristics, available at: <https://www.stats.govt.nz/methods/statistical-standard-for-gender-sex-and-variations-of-sex-characteristics>

Comments:

OTHER TOPICS

13. Coordination And Integration Of Different Systems

Best Practice: Governments should establish a Technical Working Group (TWG) on Gender Identity under their broader CRVSID Coordination Committee, to help standardize terminology, processes and criteria across systems. (See Chapter 2, Enabling Environment, for more on coordination mechanisms).

All aspects of the civil registration and national identity management system should be aligned so that: 1) gendered terminology across databases and platforms contains the same gendered options, and 2) the process and criteria for changing one's gender and name across agencies and systems is the same. The first point is important for interoperability of systems. If various agencies and systems use different gendered terminology, it will be difficult for agencies to send and receive gender-based information to update their records. The second point is important because it enables a person to align their gender and name across all their documents, as discussed above in Section 6. A TWG on Gender Identity, with gender diverse representatives from the various relevant agencies, will help achieve these goals.

Guidance: Answer the questions below regarding any TWG or other mechanism to help set policy and coordinate processes on gender identity and CRVSID. In the comments section, discuss whether the legal framework aligns with best practice and any recommended amendments to the law.

-
- a. **Is there a coordination committee or other mechanism for aligning CRVSID terminology, criteria, and processes across agencies and systems?** If yes, does it include gender diverse representation? Describe the committee.

Citation(s):

Comments:

14. Accountability and Enforcement

Best Practice: Civil registrars, identity registrars, and other government officials, as public servants, must faithfully carry out the law, treat all people with respect, and perform their duties with non-discrimination and good faith efforts. Where a civil registrar, statistician, or identity management official fails to carry out duties or abuses their authority, the law should explicitly provide for penalties.⁴²³ There should be clear disciplinary procedures and penalties for instances of deliberate misconduct, such as failure to register a change of gender in accordance with law and inappropriate disclosures,⁴²⁴ as well as for abuse of powers and discretion. In criminal cases, the head of the civil registration, statistics and/or identity

⁴²³ *Principles and Recommendations for a Vital Statistics System, Revision 3*, United Nations Publication, Sales No.E.13.XVII.10, United Nations, 2014, paragraph 338 - 339.

⁴²⁴ *Principles and Recommendations for a Vital Statistics System, Revision 3*, United Nations Publication, Sales No.E.13.XVII.10, United Nations, 2014, paragraph 326.

management agency should be accountable to the competent law enforcement authorities.⁴²⁵

Guidance: Answer the questions below regarding any penalties or sanctions imposed upon registrars and other government officials for failure to comply with CRVSID laws. In the comments section, discuss whether the legal framework aligns with best practice and any recommended amendments to the law.

- a. **Describe any penalties or sanctions imposed upon civil registrars for failure to comply with civil registration laws.** Note if there are any penalties specific to a civil registrar’s refusal to change a person’s gender in civil registration records or disclosure of a change in gender.

Citation:

Comments:

- b. **Describe any penalties or sanctions imposed upon identity registration officials for failure to comply with identity registration laws.** Note if there are any penalties specific to an identity registrar’s refusal to change a person’s gender in national identity records or disclosure of a change in gender.

Citation:

Comments:

- c. Are there penalties for improper disclosure of confidential information?

Citation:

Comments:

Resources

Yogyakarta Principles

- Yogyakarta Principles and Yogyakarta Principles Plus 10, available at: <https://yogyakartaprinciples.org/>

United Nations and Related Organizations Publications:

- International Organization for Migration, Full Glossary of Terms to describe sexual orientation, gender identity, gender expression and sex characteristics, updated November 2020, available at: <http://www.unglobe.org/resources>
- Guidelines on a Legislative Framework for Civil Registration, Vital Statistics, and Identity Management, United Nations, 2019, available at: <https://unstats.un.org/unsd/demographic-social/standards-and-methods/?topics=Civil%20Registration%20and%20Vital%20Statistics>

⁴²⁵ UN GOLF, para 531.

- Born Free and Equal, United Nations Human Rights Office of the High Commissioner, 2019 (Second Edition), available at: <https://www.ohchr.org/en/issues/discrimination/pages/bornfreeequalbooklet.aspx>
- Fact Sheet: Intersex, United Nations Free and Equal, available at: <https://www.unfe.org/learn-more/>

Other Publications:

- The fundamental rights situation of intersex people, European Union Agency for Fundamental Rights, 2015, available at: <http://fra.europa.eu/en/publication/2015/fundamental-rights-situation-intersex-people>
- ILGA Europe, Non-Binary Gender Registration Models In Europe, September 2018, available at: <https://www.ilga-europe.org/resources/ilga-europe-reports-and-other-materials>
- License To Be Yourself, Open Society Foundations, New York, 2014, available at: <https://www.opensocietyfoundations.org/publications/license-be-yourself>
- My ID, my identity? The impact of ID systems on transgender people in Argentina, France and the Philippines, Privacy International, 15 January 2021, available at: <https://privacyinternational.org/long-read/4372/my-id-my-identity-impact-id-systems-transgender-people-argentina-france-and>
- How Common is Intersex? Intersex Society of North America, available at: <https://isna.org/faq/frequency/>
- Stat NZ, Statistical standard for gender, sex, and variations of sex characteristics, April 2021, p.23, available at: <https://www.stats.govt.nz/methods/statistical-standard-for-gender-sex-and-variations-of-sex-characteristics>
- Advancing LGBTQI Health Research, The Lancet, Vol. 397, May 29, 2021, pp 2031- 233, available at: [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(21\)01057-6/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(21)01057-6/fulltext)
- Ann P. Haas, Andrew Lane, and on behalf of the Working Group for Postmortem Identification of SO/GI, Collecting Sexual Orientation and Gender Identity Data in Suicide and Other Violent Deaths: A Step Towards Identifying and Addressing LGBT Mortality Disparities, LGBT Health, March 2015, pp. 84-87, available at: <https://www.liebertpub.com/doi/10.1089/lgbt.2014.0083>

Selected Laws:

- Argentina Gender Identity Law, available at: <https://tgeu.org/argentina-gender-identity-law/>
- California Assembly Bill No. 1577 (as amended by Bill No. 439), available at: https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=20210220AB439
- District of Columbia Law 21-258, Death Certificate Gender Identity Recognition Amendment Act of 2016, available at: <https://code.dccouncil.us/dc/council/laws/21-258.html>
- Malta Gender Identity, Gender Expression and Sex Characteristics Act, available at: <https://tgeu.org/gender-identity-gender-expression-sex-characteristics-act-malta-2015/>

International Court Cases

Inter-American Court Of Human Rights, Advisory Opinion OC-24/17, Of November 24, 2017, Requested by the Republic of Costa Rica: Gender identity, and equality and non-discrimination of same-sex couples
 State obligations concerning change of name, gender identity, and rights derived from a relationship between same-sex couples (Interpretation and scope of articles 1(1), 3, 7, 11(2), 13, 17, 18 and 24, in relation to article 1, of the American Convention on Human Rights); available at: https://www.corteidh.or.cr/docs/opiniones/seriea_24_eng.pdf

Websites:

- United Nations Free and Equal: <https://www.unfe.org/>
- ILGA World: The International Lesbian, Gay, Bisexual, Trans And Intersex Association: <https://ilga.org/>
- Human Rights Campaign: <https://www.hrc.org/>

Chapter

12

Population Register

Why it is important: Not all countries maintain a population register. However, for those that do, the population register is essentially a computerized database with a separate record for each individual residing in the country and, in many countries, for citizens residing abroad as well. The record contains information from, or linkage with, various other government databases, including the civil registration system, national identity system, and others. The primary function of the population register is to provide reliable information for the administrative purposes of government. If a population register is maintained, this section contains key topics that should be addressed in the law.

Introduction

Not all countries maintain a population register. For those that do, the population register is essentially a computerized system with up-to-date information for each individual residing in the country. The "resident population" includes all persons within the territory of the country, regardless of citizenship status. In many countries, the population register also contains information pertaining to persons who are not usual residents of the country, such as citizens temporarily residing abroad, those who have emigrated, and those who are deceased or disappeared.⁴²⁶ The system contains information from, or linkages to, various government databases, including the civil registration system, the national identity system, and others. The primary function of the population register is to provide reliable information for the administrative purposes of government.

This chapter covers the following topics:

1. Method of Sharing Data: Merged or Linked data
2. Agency Responsible for the Population Register
3. Information Shared by Civil Registration and ID Registration Authorities with the Population Register
4. Information Shared Between Other Agencies and the Population Register
5. Data Sharing: Frequency and Data Protection

1. Method of sharing data: merged or linked data

Good Practice: There are two main types of methods to share information with a population register: merging and linking.

In a merged population register, information is shared from various government databases and stored in the population register. In this type of system, all the information shared about a particular person is merged into a personal file in the population register. However, merged population registers present a privacy risk due to the large amount of consolidated information in one place.⁴²⁷ There is a risk that a person with access to the system, for a specified purpose and set of information, can access other information not needed for that purpose. Therefore, in the last decade there has been a trend away from merged databases.

In linked population register systems, information from various government agencies is not merged into a personal file. Instead, government registers and databases are linked so that any particular desired information is accessible to an authorized agency at the time that specific information is needed.⁴²⁸ In this kind of system, information is stored across different databases, and linked and shared only when a specific purpose and need arises.⁴²⁹

There are different ways to link databases. One way of linking is to use a UIC so that each sector-specific database can share information with any other sector-specific database (as shown in Figure 1 below). Selected information is shared between databases, on request, for a specific purpose; however, the requested information is not stored in the database that is requesting the information.

Another way of linking is through a matching register. In this type of linked system, each sector-specific database contains only a sector-specific number for the individual, not a UIC. To request information, an

⁴²⁶ United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014, Para. 454.

⁴²⁷ Gelb and Diofasi, Preliminary Discussion Paper on the Future of Identification and Development, Center for Global Development, 2015, page 29.

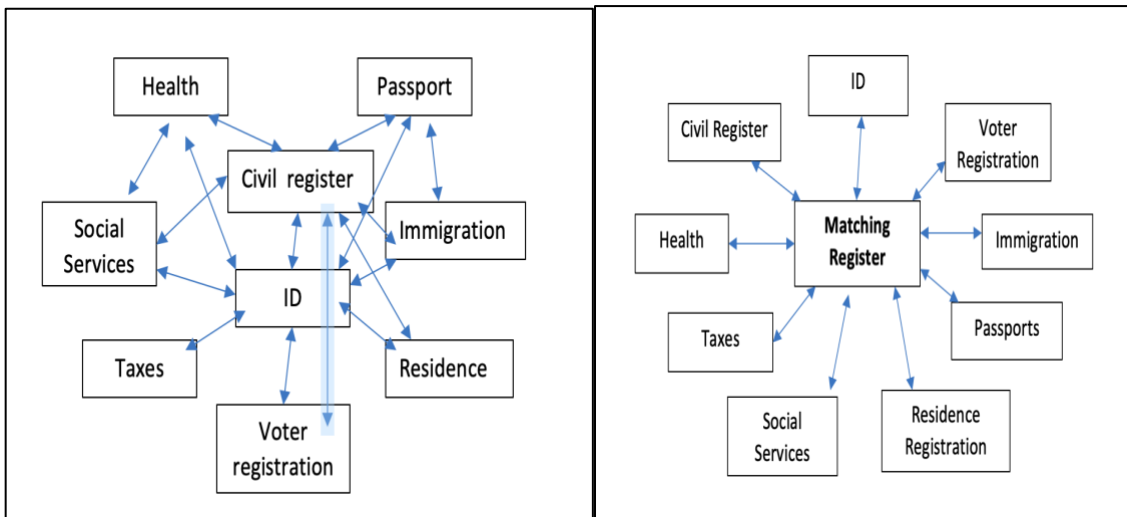
⁴²⁸ See United Nations, Principles and Recommendations for a Vital Statistics System, Revision 3, New York, 2014, paragraph 469.

⁴²⁹ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 104.

intermediary matching register that contains the UIC and sector-specific numbers for everyone in the population is used (as shown in Figure 2 below). When a request for information is made, the matching register matches the sector-specific number with the UIC, then transmits the request to the database with the needed information by matching to that sector-specific number. The information is then relayed back in the same way. Storing the UIC separate from, but alongside, other functional databases allows for deliberate data matching and linkage for approved purposes, but adds a layer of security if there is a data breach.⁴³⁰

Figure 1: Linked System – Using UIC

Figure 2: Linked System – Using a Matching Register



Guidance: Describe whether information in the population register is merged from information across various databases, or whether information is stored in various databases and linked through a UIC or other means. If a linked system is used, describe whether information is shared directly or through a matching register. In the comments section, describe whether the law aligns with good practice and note any recommendations for regulatory reform.

a. Is the population register a merged register or a linked system?

Citation:

Comments:

b. If a linked system is used, is information shared directly across databases through use of a UIC, or is an intermediary matching register used to match sector specific numbers with a UIC?

Citation:

Comments:

⁴³⁰ Implementation of the United Nations Legal Identity Agenda, United Nations Country Team Operational Guidelines, May 2020, paragraph 98.

2. Agency Responsible for Population Register and Relevant Population

Good practice: Agencies in charge of operating and maintaining a population register system differ from one country to another. For example, a merged population register may be the responsibility of the ministry of interior, home affairs, or justice, or the statistics or tax authority. In some countries, the entity responsible for maintaining the population register may be the same as the entity responsible for civil registration and/or national identity card registration.⁴³¹ In a linked system, the computerized operations system that links various databases might be under a ministry or agency responsible for information and communications technology (ICT) or other agency.

In a merged system, the population register would have a data file on every person who is a resident of the country, regardless of citizenship status. Many countries also include citizens who reside abroad in a merged population register. For linked systems, data may be shared (for legitimate and defined purposes) for any person within any of the linked databases.

Guidance: State the agency in charge of the population register. Describe whose data is maintained in a merged population register (e.g. citizens, all persons residing within the territory of a country, citizens outside the territory of the country), or whose data is linked in a linked system. In the comments section, describe whether the law aligns with good practice and note any recommendations for regulatory reform.

a. State the agency in charge of population register.

Citation:

Comments:

b. Describe whose data is maintained in a merged population register or whose data is linked in a linked system.

Citation:

Comments:

3. Information shared by Civil Registration and ID Registration Authorities with the Population Register

Good practice: The content of the population register system varies from country to country and by the type of system maintained. In linked systems, each government database contains only the information relevant to that sector, as discussed above.

In merged systems, the population register commonly contains the name of a person and her/his parents,

⁴³¹ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 471.

date and place of birth, residential address, and UIC.⁴³² A merged population register also often contains information concerning an individual's legal status (such as citizenship, legal residency status, immigration and emigration status) and civil status (i.e., married, unmarried, divorced).

For those born in the country, the first entry into a population register system happens at birth. After birth registration, the civil registration agency shares basic facts about a child (name, parents, place/date of birth and UIC) to the merged population register, or shares the UIC to the matching register if a matching register is used. Sharing of the UIC soon after it is assigned is essential, as this allows the population register system to link with other databases and to maintain continuously up-to-date information about the population.⁴³³

The civil registration authority may also share information about the fact of the occurrence of other vital events - marriage, divorce, adoption, legitimation, recognition, and death - to a merged population register, or push specific relevant information to specific authorities in a linked system (for example, pushing death registration information to the ID authority to deactivate an identity after death). This keeps the population register system up to date regarding a person's civil status.⁴³⁴

Country practices vary on what information is shared by the national identity system to a merged population register. This information generally includes what identity documents have been issued, such as national ID card, passport, or driver's license. In some countries, biometrics are shared, in others they are not shared due to privacy concerns.⁴³⁵ Because identity should be authenticated through the ID management system, and not the population register, there generally is no need for biometrics to be merged in a population register. For data protection and personal privacy reasons, it is recommended to permit linkage and use of biometrics only as needed for a specific authorized purpose.

Guidance: Describe what information is shared by the civil registration and national identity registration authorities with the population register. In the comments section, describe whether the law aligns with good practice and note any recommendations for regulatory reform.

a. Describe the information shared by the civil registration authority with the population register.

Citation:

Comments:

b. Describe the information shared by the national identity system with the population register.

Citation:

Comments:

⁴³² United Nations, Handbook on Civil Registration and Vital Statistics Systems: Management, Operation, Maintenance, Revision 1, 2018, paragraph 443.

⁴³³ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 474.

⁴³⁴ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 475.

⁴³⁵ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 476.

4. Information shared between other agencies and the Population Register

Good practice: Many other functional registers (such as a residency register, voter registration, tax authority, immigration, etc.) may also share information with, and receive information from, the population register system.⁴³⁶ For those not born in the country, first entry into the population register system usually happens when a person immigrates to a country and is assigned a UIC. At that point in time, the immigration agency would submit their basic information to a merged population register, or submit the assigned UIC to the matching register in such a linked system.

Guidance: Describe what information is shared between other agencies and the population register. State the agency and the information shared. In the comments section, describe whether the law aligns with good practice and note any recommendations for regulatory reform.

- a. **Describe the other agencies and databases that share information with the population register system.** Describe the information, if known.

Citation:

Comments:

5. Data Sharing: frequency and data protection

Good practice: The law should address the frequency of sharing of records from the civil registration and identity management agencies, as well as other appropriate agencies, if a merged population register is used. The frequency of data sharing will depend on the degree of digitization and integration across systems. In a merged system that is not fully digitized, information might be uploaded and sent according to a fixed schedule; for example, daily, weekly, or monthly. However, in systems that are fully digitized and integrated across agency platforms, it may be that information is shared continuously and in real time. In other words, when specified information is entered into one database, it is automatically pushed into the population register. For example, in such a system, when the civil registration authority enters information about a new birth into the birth register, the name, date and place of birth, and parents' name would be pushed into the merged population register at that time.

Linked systems work differently. In a linked system, the information from one database is shared with another government database only on an "as needed" basis. Only the minimum information needed is shared with the authorized person or office and only for the time it takes to fulfil the specified purpose. The received data is not stored in the receiving database. This system is more protective of personal privacy than a merged system because the information available to any individual government official is limited in both content and time.

Regardless of the manner of data sharing, the law should provide for secure sharing of information, including end-to-end encryption. See Chapter 11 for more on personal privacy and data protection procedures.

Guidance: Describe the data sharing process for all relevant agencies, including the civil registration agency, national identity agency, and any other agencies that share data. Describe whether there are procedures for personal privacy and data protection. In the comments section, describe whether the law aligns with good practice and note any recommendations for regulatory reform.

⁴³⁶ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 477.

- a. **Process for data sharing between population registrar system and other databases**, including frequency of updating data (if known) and procedures for protecting data during transmission (such as encryption).

Citation:

Comments:



Chapter

13

Personal Privacy and Data Protection

Why it is important: Civil Registration, Vital Statistics, and Identity Management Systems contain a wealth of personal information. Protection of this data from accidental and unauthorized access, loss, destruction, and tampering is critical for public confidence, as well as the efficient and effective functioning of these systems.

Introduction

Civil Registration, Vital Statistics, and Identity Management Systems contain a wealth of personal information. While privacy principles have always applied to personal data stored in paper-based civil registration, vital statistics and identity management systems, digitization of data has given rise to new concerns due to the volume of personal data collected, used and stored; the range of analytics involving personal data; the value and global availability of personal data; and threats to personal privacy from hacking and other unauthorized access and use. With the linking of national ID systems, many of which contain biometric information, to civil registration systems, the protection of personal data becomes even more crucial.

Due to these concerns, in recent years many countries and organizations have adopted data protection laws and principles. In 2013, the Organization for Economic Co-operation and Development (OECD) adopted *Privacy Guidelines*, which updated previous guidelines from 1980. These *Privacy Guidelines* are applicable to public and private data collectors. In April 2016, the European Union adopted the *General Data Protection Regulation (GDPR)*, which came into force in May 2018 and applies to all public and private data collectors in EU member countries, including CRVSID systems. The World Bank and key partners developed *Principles on Identification for Sustainable Development*, centred around the themes of inclusion, design and governance, that frame their work on identification for development. Recognizing the need for protection of personal data, the UN adopted *Personal Data and Privacy Principles* in October 2018, which apply to all personal data stored or processed by, or on behalf of, the United Nations System Organizations in carrying out their mandated activities.⁴³⁷

The *OSCE Privacy Guidelines*, *EU GDPR* and *UN Personal Data and Privacy Principles* have much in common; they contain similar broad data protection and personal privacy concepts. Ideally, a country has a general data protection law that embodies these concepts. If such a law exists, CRVSID legislation or the general data protection law should state how the provisions of a general data protection law specifically apply to records in the CRVSID systems; as the application of these concepts to public, legally mandated databases (such as CRVSID systems) may differ from private data collection systems and other government systems. If a general data protection law does not exist, CRVSID legislation should contain provisions that apply these concepts in a way that provides for the protection of personal information contained in CRVSID records while still allowing for authorized administrative uses.

Below are set forth the *UN Personal Data and Privacy Principles*, with an explanation on how they may be applied to CRVSID systems to ensure the protection and privacy of personal data, while still allowing CRVSID systems to function effectively and fulfill their intended purposes.

This chapter covers the following topics:

1. Fair and Legitimate Processing
2. Purpose Specification
3. Proportionality and Necessity
4. Retention
5. Accuracy
6. Confidentiality
7. Security
8. Transparency
9. Transfers
10. Accountability

⁴³⁷ United Nations, *Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems*, New York, 2019, Para. 51-52, 498.

UN Principles of Data Protection and Privacy

1. Fair and Legitimate Processing

Best Practice: Fair and legitimate processing means that data should be processed in a fair manner, on the basis of consent by the person whose data is collected or based on established rules.

Civil registration and identity registration systems comply with the fair and legitimate processing principle when data is collected based upon established laws. These laws should specify the data to be collected and processed through civil registration and identity registration.⁴³⁸ Note that the data fields to be collected are usually contained in forms authorized under the law, rather than the law themselves. This aligns with good practice.

Biometric should only be collected if authorized by law. For example, if an ID law authorizes collection of biographical data, but the ID system now collects biometric data without the law being amended to authorize this, this practice would violate the fair and legitimate use principle.

Guidance: Describe whether data during civil registration and identity registration is collected based on established law or rules. In the comments section, describe whether the law aligns with best practice and note any recommendations for regulatory reform.

- a. **Does the collection of civil registration and identity data comply with the fair and legitimate processing principle?** In other words, is the data collected based on established law or rules?

Citations:

Comments:

2. Purpose Specification

Best practice: The purpose specification principle requires that data be processed only for its specified purpose.

To comply with the purpose specification principle, legislation should clearly define the purposes for which the data will be used, such as legal, statistical, and administrative purposes. The law should be written broadly enough to cover all legitimate purposes for which data is used. Use of data beyond these purposes violates the purpose specification principle.

Guidance: Describe whether laws that govern civil registration and identity registration clearly specify the purpose for which data is processed. In the comments section, note whether the use of data in practice goes beyond those purposes specified in law.

- a. **Do the civil and identity registration laws clearly specify the purpose for which the data will be used?** Is the data used for any purposes other than those specified?

Citations:

Comments:

3. Proportionality and Necessity

Best Practice: The principle of proportionality and necessity requires that processing of personal data be

⁴³⁸ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 501.

relevant, limited and adequate to what is necessary in relation to the specified purposes of personal data processing.

A wide array of information is collected during registration of vital events in order to carry out the legal, statistical and administrative functions of civil registration. The legal information is stored and maintained in the civil register, and this information should be limited to that which is necessary for the legal functions of civil registration. In other words, the civil register should contain basic information regarding the vital event and the persons concerned. As discussed in the Vital Statistics Chapter, Section 6, a much larger amount of information is collected for the generation of vital statistics. This information is sent anonymized to the statistics agency and should not be stored in the civil register.

For identity credential registration, the information collected should be kept to the minimum needed to register, validate and authenticate an identity - for example, name, limited biographical information, and any biometrics (if authorized for by law).⁴³⁹

Guidance: Answer the questions below regarding whether data collected and stored for civil registration and identity registration aligns with the principle of proportionality and necessity. In the comments section, describe whether the law aligns with best practice and note any recommendations for regulatory reform.

- a. **Is the data collected and stored in the civil register limited to only the information needed for legal purposes?**

Citations:

Comments:

- b. **Is the data collected during identity registration limited to only that which is relevant and necessary for identity registration, validation, and authentication purposes?**

Citations:

Comments:

4. Retention

Best Practice: The retention principle requires that data be retained only for the time that is necessary for the specified purposes.

It is best practice to maintain civil registration and identity registration records (including records in the population register) permanently, even after a person's death, as this is necessary for the legal purposes of civil and identity registration. Therefore, law should authorize the permanent archiving and retention of these records. This aligns with the retention principle.

Guidance: Describe whether the laws that govern civil registration and identity registration authorize the permanent retention of records. In the comments section, describe whether the law aligns with best practice and note any recommendations for regulatory reform.

- a. **Do civil registration and identity registration laws authorize the permanent retention of records?**

⁴³⁹ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 503.

Citations:

Comments:

5. Accuracy

Best practice: The accuracy principle requires that data be accurate and, where necessary, up to date to fulfill the specified purposes.

This principle requires that laws permit individuals to correct or or amend their personal data in civil registration and identity registration records through authorized processes. These processes should be easy to access and swift and efficient, as this enables records to be kept up to date and accurate. Accordingly, laws should establish administrative process, rather than court processes, to the extent possible (See Chapter 3, Section 12, on corrections and amendments).

Guidance: Describe whether the laws that govern civil registration and identity registration allow for efficient and swift correction and amendment of personal data. In the comments section, describe whether the law aligns with best practice and note any recommendations for regulatory reform.

a. Do civil registration laws allow for efficient and swift correction or amendment of personal data?

Citations:

Comments:

b. Do identity registration laws allow for efficient and swift correction or amendment of personal data?

Citations:

Comments:

6. Confidentiality

Best practice: The confidentiality principle requires that data be processed with due regard for confidentiality.

Civil and identity registrars should be required, by law, to protect the confidentiality of personal data. In addition, for civil registration, only those with a legitimate interest should be permitted to obtain vital event certificates or certified extracts of civil registration records. Further, identity credentials should not contain on their face, or digitally embedded, any confidential information in a manner that permits persons without a legitimate interest to access this information.

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

a. Are civil and identity registrars required, by law to protect the confidentiality of personal data?

Citations:

Comments:

7. Security

Best practice: The security principle requires that appropriate organizational, administrative, physical and technical safeguards and procedures be implemented to protect the security of personal data, including against or from unauthorized or accidental access, damage, loss or other risks presented by data processing.

Different categories of government officials and non-government persons –including civil registration, identity management and other government officials; vendors, contractors and independent researchers; and private institutional users - have diverse needs for access and use of data from CRVSID systems. Laws (including SOPs) should allow for the legitimate use of data to meet government needs while protecting the security of that data.⁴⁴⁰

Government Officials: To protect against unauthorized or accidental access by government officials – including civil and identity registrars and others - procedures should be put in place, or the system should be designed, to limit access to only the data necessary for the specific function or task in question.⁴⁴¹ To ensure that only authorized personnel access data, some systems are designed in such a manner as to automatically and continuously keep a log of personnel that access records.⁴⁴² This helps ensure that the policies put in place are complied with.

Independent researchers: In some instances, academic or independent researchers may request access to civil registration or other data for legitimate research purposes. Any data transferred to independent researchers should have identifying information removed and the use of the data should be subject to a user agreement on confidentiality.⁴⁴³

Contractors and Vendors: Civil registration and identity management agencies may have need to contract with technology firms and other vendors to carry out specific functions of the system. Vendors' and contractors' access to data should be limited to only that which is essential to carry out the task required. In addition, access should be subject to a contract between the government agency and the vendor that sets out what data may be accessed, how it may be accessed and processed, and limiting the ability of the vendor/contract to store and retain that data.⁴⁴⁴

Private Institutions: Private institutions, such as banks, private hospitals, and others, may use the identity management system for authentication of individuals. The means for authenticating an identity should ensure that the private institution does not have the ability to collect and store identity data, but has only the ability to authenticate the identity of the individual at the time of request.⁴⁴⁵

Transmission and Storage: Data is particularly vulnerable during transmission (including linking) and

⁴⁴⁰ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 507.

⁴⁴¹ *Handbook on Civil Registration and Vital Statistics Systems: Management, Operation, Maintenance, Revision 1*, paragraph 485 - 488.

⁴⁴² United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 513.

⁴⁴³ *Principles and Recommendations for a Vital Statistics System, Revision 3*, United Nations Publication, Sales No.E.13.XVII.10, United Nations, 2014, paragraphs 269, 299.

⁴⁴⁴ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 511.

⁴⁴⁵ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 512.

therefore measures, such as end-to-end encryption, should be put in place to safeguard data during transmission.⁴⁴⁶ To ensure against accidental loss of data during storage and archiving, there should be protocols for maintenance and backup systems.⁴⁴⁷

Guidance: Answer the questions below. In the comments section, analyze whether the law and procedures in place align with best practice and note any recommendations for reform.

- a. **For government officials, is access to personal data restricted to only that which is necessary for the specific task in question? Are access logs kept?**

Citation:

Comments:

- b. **For independent researchers, is data anonymized and subject to user and confidentiality agreements?**

Citation:

Comments:

- c. **For contractors and vendors, is data access limited to only that which is necessary for the specified task and subject to user and confidentiality agreements?**

Citation:

Comments:

- d. **For private institutions using identity authentication services, are systems designed to prevent the collection and storage of identity data?**

Citation:

Comments:

- e. **Describe measure to protect data during transmission and storage, including encryption, back-up and storage, if known.**

Citation:

Comments:

⁴⁴⁶ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 515.

⁴⁴⁷ *Handbook on Civil Registration and Vital Statistics Systems: Management, Operation, Maintenance, Revision 1*, 2018, paragraph 251.

8. Transparency

Best practice: Processing of personal data should be carried out with transparency to the data subjects.

All persons have a right to know how their civil registration and identity data is collected, used, stored and shared. To help ensure transparency of personal data processing, the law should allow for administrative complaints and judicial appeals of decisions by government officials that infringe upon transparency.⁴⁴⁸

Guidance: Describe procedures that allow a challenge to any registrar’s decision regarding personal data. In the comments section, describe whether the law aligns with good practice and note any recommendations for regulatory reform.

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- a. Describe any procedures that allow for administrative complaints and judicial appeal of decisions by civil registration and identity registration officials.

Citation:

Comments:

9. Transfers

Best practice: The transfer principle mandates that data may be transferred to a third party only if the data collector satisfies itself that the third party affords appropriate protection for the personal data.

This principle has implications for cross-border data sharing of data, such as data sharing between national registrars, which is helpful in keeping civil registers, identity registers and population registers up to date. Legislation should mandate that CRVSID systems may share data with another country if that country provides for an adequate level of data protection. If a country is not deemed to have adequate data protection laws, the data should only be shared subject to appropriate safeguards, such as an enforceable confidentiality and data protection agreement.

This transfer principle may also have implications for data transfers within a country if other government agencies, or non-governmental or private sector entities, are not subject to the same data protection rules as the CRVSID system. This may be the case if a country does not have a general data protection law. In that case, the CRVSID laws should require that civil registration and identity management records may be shared with other government agencies only subject to an enforceable confidentiality and data protection agreement.⁴⁴⁹

Guidance: Describe any laws, policies or rules that set standards regarding to whom data may be transferred and note whether these standards require transferees to have adequate data protection policies. In the comments section, describe whether the law aligns with good practice and note any recommendations for regulatory reform.

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- a. Describe data transfer policies, included rules requiring transferees to have adequate personal data protection policies in place.

⁴⁴⁸ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 519-520.

⁴⁴⁹ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 521.

Citation:

Comments:

10. Accountability

Best practice: The accountability principle requires entities that collect data to have adequate policies and mechanisms in place to adhere to all of the above principles. To comply with the accountability principle, CRVSID systems should be subject to general data protection laws that reflect the above principles, or CRVSID laws themselves should reflect these principles. In addition, providing for sanctions and penalties for a breach of data protection principles ensures registrars and other government and non-governmental entities and persons are held accountable for compliance.⁴⁵⁰

Guidance: Describe any penalties or sanctions imposed on civil and identity registrars and others for breaching personal privacy and data security requirements. In the comments section, describe whether the law aligns with good practice and note any recommendations for regulatory reform.

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- a. Describe any penalties or sanctions imposed on civil and identity registrars for breaching personal privacy and data security requirements.

Citation:

Comments:

⁴⁵⁰ United Nations, Guidelines for the Legislative Framework for Civil Registration, Vital Statistics and Identity Management Systems, New York, 2019, Para. 520, 522.