CIVIL REGISTRATION IN SOUTH ASIA:
REGULATIONS, RELATIONSHIPS AND THE ROLE OF ICT

Eds. Kendra Gregson
UNICEF
Tanja Sejersen
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CONSIDERING LEGISLATIVE FRAMEWORKS

THE STATUS OF MARRIAGE AND DIVORCE REGISTRATION

THE ROLE OF ICT IN STRENGTHENING CIVIL REGISTRATION

CR8
Civil Registration Professionals Of South Asia

SRI LANKA PAKISTAN NEPAL MALDIVES INDIA BHUTAN BANGLADESH AFGHANISTAN

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FOREWORD

The fundamental purpose of civil registration is met when a State records information regarding an individual's vital events and provides the individual with certified documentation. This includes birth, marriage and death certificates. And because all these events should be recorded and documented regardless of any personal or contextual characteristic, well-functioning CRVS systems are therefore a prerequisite for realizing the achievement of the 2030 Agenda for Sustainable Development to ensure we are leaving no one behind.

Achieving legal identity for all through birth registration is also a target in its own right (Goal 16) and the 2030 Agenda specifies universal birth and death registration as central to effective national statistical systems (Goal 17). Each requires effective legislation facilitating access for all to be able to register their vital events.

Civil registration may also benefit from advancements in technology, facilitating the achievement of complete registration. Meanwhile, ending child marriage (Goal 5) is supported by marriage registration because it enables accurate monitoring. In fact, more than one-third of the SDG indicators are directly dependent on timely and universal recording of vital events, either for guaranteeing individual rights or acquiring population data.

2021 will be an important milestone for CRVS. A Second Ministerial Conference on Civil Registration and Vital Statistics in Asia and the Pacific is being planned to celebrate the midterm of the Asian and Pacific CRVS Decade (2015-2024). This is part of the regional initiative to 'Get Every One in the Picture'. The initiative supports the vision that by 2024, universal and responsive civil registration and vital statistics systems benefit all people in Asia and the Pacific and facilitate the realization of their rights and support good governance, health and development.

As countries endeavour to meet the goals and targets of the 2030 Agenda, professional collaboration plays an important role in developing stronger CRVS systems, including knowledge exchanges amongst Civil Registrars to discuss common concerns and learn from the experience of others.

This publication builds on the success of the first meeting of the Civil Registration Professionals of South Asia in July 2018 and expands on the conversations from the second meeting, 26 – 28 November 2019, in Maldives. While the 2018 compendium of papers laid the groundwork for 'Coordination, Connections and Collaboration', the present papers review legislative frameworks, marriage and divorce in South Asia, and strengthening the use of ICT in civil registration.

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INTRODUCTION

Each of the South Asian countries has operational civil registration offices, reflecting this region's prioritization of civil registration in its domestic policy agenda, as well as their commitment to the realization of the goals of the Regional Action Framework on Civil Registration and Vital Statistics (CRVS) in Asia and the Pacific. Although each country has established different coordination mechanisms and methods for carrying out civil registration tasks, there nevertheless remains a fundamental commitment to achieving universal civil registration.

Across the region there are also similar issues and questions faced by the civil registration professionals. While birth and death registration are a priority, acknowledgment of marriage registration is growing as countries work to implement the Regional Action Plan to End Child Marriage in South Asia, adopted by all countries in the region.

With the ambitious targets of 100 percent birth and 80 percent death registration by 2030, countries are also employing different information and communication technologies to achieve their objectives. These are, at times, placed within a broader ID-Management structure. This creates a need to reflect upon potential legal reforms so that laws keep pace with needed practices, preemptively address what is required, and reflect international standards.

Understanding the scope of the challenges ahead, the Civil Registration Professionals of South Asia (CR8) met for the second time in Maldives, from 26 – 29 November 2019 to continue addressing cross-border collaboration efforts and share good practices for improving systems to ensure no one is left behind.

The present publication, *Regulations, Relationships & The Role of ICT in Strengthening Civil Registration*, includes the three background papers forming the basis of discussions for the CR8 Professionals during the Maldives' meeting. Each incorporates the discussions held during the meeting. The publication further includes the conclusions and recommendations for further collaboration between the countries in South Asia. The meeting presentations and additional resources can be found at http://www.getinthepicture.org/resource/second-meeting-civil-registration-professionals-south-asia-cr8.

Acronyms & Abbreviations

APAI-CRVS	Africa Program for Accelerated Improvement in Civil Registration and Vital Statistics
CEN	Comité Européen de Normalisation
CI	civil identification
CR	civil registration
CR8	Civil Registration Professionals of South Asia
CRVS	civil registration and vital statistics
DBC	digital birth certificate
DHS	Demographic and Health Survey
DNR	Department of National Registration, Maldives
DOB	date(s) of birth
ESCAP	See UN ESCAP
EU	European Union
GDPR	General Data Protection Regulation
GSM	Global System for Mobile Communications
IADB	Inter-American Development Bank
ICT	information and communication technologies
ID4D	Identification for Development
IDRC	International Development Research Centre
IEC	International Electrotechnical Commission
ISO	International Organisation for Standardization
IT	information technology
JTC	Joint Technical Committee
MICS	Multiple Indicator Cluster Survey
NPR	national population register
OLC	Online Learning Course / Open Learning Campus
OSI	Open Source Initiative
OSS	open source software
PKI	public key infrastructure
ROSA	Regional Office for South Asia (UNICEF)
SC	sub-committee
TC	technical committee
UHI	Unique Health Identifier
UIN	Unique Identification Number
UN	United Nations
(UN)ECA	United Nations Economic Commission for Africa
(UN)ESCAP	United Nations Economic and Social Commission for Asia and the Pacific
UNICEF	United Nations Children's Fund
UNSD	United Nations Statistics Division
WG	working group

CONSIDERING LEGISLATIVE FRAMEWORKS [1]

Abstract

There is great diversity in how countries organize and structure their civil registration systems due to differences in government, culture and traditions, as well as socio-economic conditions. Despite the differences, there are also common characteristics for civil registration that need to be reflected in the legal framework; namely that they are universal, permanent and confidential. Civil registration is a right and supports the realization of other rights, and therefore is guided by international and national laws.

The legal framework governing a civil registration system reflects the overarching policy structure in the country, whether it is centralized or decentralized. As the foundational register, it needs to consider what the relationship will be with other systems such as civil identification, as well as how it supports people to realize their rights. This can be challenging in an era with extensive use of information and communication technologies that create complexities for not only how the legislation is written but also the regulations required for data privacy. With migration within and outside the national boundaries, the law needs to be clear that all should be registered.

1. Introduction

In November 2014, governments attending the Ministerial Conference on Civil Registration and Vital Statistics (CRVS) in Asia and the Pacific announced the Asia and

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[1] This paper was drafted by Mr. Frank Nan and benefitted from contributions from Kendra Gregson of UNICEF, Tanja Sejersen and Daniel Swaisgood of ESCAP, as well as from significant contributions provided by participants at the meeting of the Civil Registration Professionals of South Asia in the Maldives, November 2019.

Pacific CRVS Decade (2015-2024). Governments gave this timeframe for achieving the shared vision that "all people in Asia and the Pacific will benefit from universal and responsive CRVS systems facilitating the realization of their rights and supporting good governance, health and development".[2] To facilitate this, governments committed to improving national CRVS systems.

A civil registration system that covers the whole population is the most effective and efficient source for providing legal identities.[3] The Regional Action Framework on CRVS in Asia and the Pacific supports the improvement of CRVS systems and suggests that improved legal frameworks may accelerate this aim.

Making vital events registration subject to the law, and establishing procedural rules and regulations, is essential for the efficient management, operation and maintenance of civil registration systems. Legislation helps to ensure the completeness of registration and to improve the accuracy of information held in the personal record. This paper provides an overview of key aspects of the civil registration legislation in South Asia and some considerations needed when changing civil registration legislation.

2. Context for reviewing civil registration legislation in South Asia

2.1 The place of civil registration legislation in the national, legal context

All countries have a legal foundation. This generally consists of a founding document, such as a constitution, and the laws passed by the national legislature and other levels of law-making authority. These laws function in a hierarchy, which determines how they rank in authority. In general, the fundamental levels of hierarchy consist of: (i) a constitution or founding document; (ii) national legislation (statutes or acts); (iii) international conventions to which the country has agreed; (iv) regulations (decrees, directives, orders) and (v) operational procedures and guidelines.[4]

In order to conduct a thorough review of civil registration legislation, reviewers should start by determining whether the system of governance over civil registration belongs to a central authority or is decentralized. In a centralized system, there will be one, or more, lead implementing agency responsible for civil registration, whereas a decentralized[5] system will grant registration authority to various political subdivisions.[6]

However, even in a decentralized system, a national organization would establish the standards and guidelines to be applied uniformly across the country. This determination will be illustrative of how civil registration occurs in practice, as well as informing reviewers about what standards are applied nationally and whether standards operate differently among political subdivisions. It will also indicate if there is space for subnational directions.

Moreover, when accounting for potential conflicts, overlaps or redundancies, issues relevant to the application of civil registration can be found, in whole or in part, in various, separate national laws. For example, legal authority over data protection, e-governance, cybercrime,

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[2] United Nations Economic and Social Commission for Asia and the Pacific (2014). *Ministerial Declaration to "Get Every One in the Picture" in Asia and the Pacific*. Available at https://www.getinthepicture.org/ministerial-declaration.

[3] United Nations Department of Economic and Social Affairs (2019). *Guidelines on the Legislative Framework for Civil Registration, Vital Statistics and Identity Management*, second draft. Available at https://unstats.un.org/unsd/publications/catalogue/.

[4] Ibid, Box 20.

[5] Ibid, Paragraph 216.

[6] Ibid.

identity documents and statistical production will likely appear separately throughout the legal framework. This is because they were passed by the legislature to address specific policy requirements.

Although many points for consideration exist, at a minimum, a thorough review of national legislation should involve the aforementioned criteria and follow the guidance of a legal review toolkit.[7]

2.2 Principles of civil registration

The review of legislation, policies and regulations should preferably adhere to international standards as described by the United Nations. For instance, the Guidelines on the Legislative Framework for Civil Registration, Vital Statistics and Identity Management provide overarching principles, as well as detailed elaboration, on the legislative framework critical for implementing international recommendations, with a focus on ensuring an integrated approach to civil registration, vital statistics and identity management.[8] The following definitions and principles are important to be taken into consideration when reviewing the legal framework on civil registration:

Table 1: Definitions and principles relevant to reviewing legal frameworks on civil registration[9]

Definition/principle	Description
Civil registration	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.
Vital event	The occurrence of a live birth, death, foetal death, marriage, divorce, annulment, judicial separation, adoption, legitimation or recognition of parenthood.
Compulsory	Civil registration must be compulsory in view of its legal, statistical, and identity management functions. From the legal and identity management perspective, birth registration establishes and provides the official record of a person's existence and thereby establishes legal identity. Registration of other vital events, such as marriage, divorce, adoption and death, establish and provide the official record of a person's civil status.[10]
Universal	In order to ensure that maximum value is derived from the civil registration system by both individuals and users of vital records and statistics information, registration services must be provided to all individuals within the territory of a country.
Continuity and permanence	A civil registration system must be both continuous - in that registration is continuously ongoing - and permanent, in that data collected through the civil registration system is permanently saved.
Confidential	Information is collected about individuals through civil registration. Some data, when identified with a specific individual, may be highly personal and sensitive. In order to promote the provision of complete and accurate data to the system, the confidentiality of the information must be protected.

Source: United Nations Statistics Division (2014). UN Principles and Recommendations for a Vital Statistics System, revision 3, 2014.

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[7] Bloomberg Philanthropies Data for Health Initiative (n.d.). Civil Registration and Vital Statistics Legal and Regulatory Review Toolkit. Available at https://crvsgateway.info/Legal-review-tools~558.

[8] United Nations Department of Economic and Social Affairs (2019). Guidelines on the Legislative Framework for Civil Registration, Vital Statistics and Identity Management, second draft.
Available at https://unstats.un.org/unsd/publications/catalogue/

[9] United Nations Department of Economic and Social Affairs, Statistics Division (2014). Principles and Recommendations for a Vital Statistics System, revision 3. Available at https://www.un.org/development/desa/capacity-development/tools/tool/principles-and-recommendations-for-a-vital-statistics-system-revision-3/.

[10] Some UN Agencies, specifically UNICEF, state the compulsory principle should only become effective when other principles are established to prevent possible conflict with the best interest of the child. For example, when it would possibly lead to discrimination or stigmatization of the child.

There are three additional characteristics that provide a holistic approach to civil registration – timeliness, accuracy and trustworthiness.[11] When events are registered immediately or soon after they occur, not only is this reflective of the statement of rights for birth registration, it also increases the accuracy of the recording. With such accuracy, the population and public institutions can trust the foundational register to provide reliable information.

Despite the diversity in how countries organize and structure their civil registration systems, the principles and concepts presented in the UN Guidelines can be adapted to all countries in a manner consistent with existing and chosen structures.[12] There is no universal 'blueprint' for developing functional civil registration systems. The most important

elements are to maintain these principles as the foundation of what the civil registration legislation should support. Enforcing these principles will ensure the collection of the required vital events data, as well as provide sound provision of legal identities and access to services and rights.

2.3 International agreements

One of the foundational principles of human rights is stated in the 1948 Universal Declaration of Human Rights: 'All human beings are born free and equal in dignity and rights.' Yet the absence of a legal identity and proof of identity serves as a barrier to fundamental rights guaranteed by the Universal Declaration or other conventions. Legal identity can be first established through birth registration,[13] which itself is a right.

Table 2: International instruments related to civil registration[14]

Year	Instrument	Countries in South Asia that are party
1948	Universal Declaration of Human Rights	Afghanistan, India and Pakistan were among the 48 countries that voted in favour
1959	Declaration on the Rights of the Child	All countries in South Asia
1989	Convention on the Rights of the Child	All countries in South Asia
1951	Convention Relating to the Status of Refugees	Afghanistan
1954	Convention relating to the Status of Stateless Persons	No countries in South Asia
1961	Convention on the Reduction of Statelessness	No countries in South Asia
1962	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages	Bangladesh and Sri Lanka
1965	International Convention on the Elimination of All Forms of Racial Discrimination	All countries in South Asia
1966	International Covenant on Economic, Social and Cultural Rights	All countries in South Asia, except Bhutan
1966	International Covenant on Civil and Political Rights	All countries in South Asia, except Bhutan
1967	Convention on the Elimination of All Forms of Discrimination Against Women	All countries in South Asia

Source: Review by author of international instruments.

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[11] Forsingdal, Anette Bayer (2019). *Taking a Holistic Approach to Digitalization of Civil Registration and Vital Statistics and Identity Systems*. Presentation to the Civil Registration Professionals of South Asia meeting, Maldives, November 2019. Available at https://www.getinthepicture.org/resource/second-meeting-civil-registration-professionals-south-asia-cr8.

[12] United Nations Department of Economic and Social Affairs (2019). *Guidelines on the Legislative Framework for Civil Registration, Vital Statistics and Identity Management*, second draft. Available at https://unstats.un.org/unsd/publications/catalogue/.

[13] See United Nations Legal Identity Agenda. Available at https://unstats.un.org/legal-identity-agenda/.

[14] United Nations Treaty Collection. Available at https://treaties.un.org/.

The fundamental connection between human rights and the civil registration of vital events was made when the International Covenant on Civil and Political Rights (effective since 1966) and the Convention on the Rights of the Child (effective since 1990) stated that "Every child shall be registered immediately after birth and shall have a name;" and when the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (effective since 1964) proclaimed that "All marriages shall be registered in an appropriate official register by the competent authority".[15] Countries that are party to international agreements as mentioned above should ensure that their civil registration legislation supports the rights described in these conventions.[16] These rights relate to all vital events being registered in a universal and continuous manner, as well as rights dependent on vital events having been registered.[17]

Not only is birth registration and marriage registration a right in itself; the registration of these and other vital events may be required for the realization of other rights. For example, the right to vote[18] may require a birth certificate to ascertain their status in the country as a citizen; the right of a person under the age of

Table 3: Summary of rights related to CRVS under international human rights framework

Right to register	Description
Birth	All people everywhere are born with inherent rights; these include the right to be registered immediately after birth, have a name and, to the extent possible, to know and be cared for by one's parents (Convention on the Right of the Child). The right to acquire a nationality also extends to all persons from birth. Everyone is explicitly entitled to these rights without distinction of any kind, including race, ethnicity, sex, language, religion, citizenship, geography or other status based on the principles of non-discrimination. All states have an affirmative duty to ensure universal birth registration without exception. At minimum, the legal framework must guarantee equal access to birth registration. (International Covenant on Civil and Political Rights).
Death	Neither the Universal Declaration of Human Rights nor the other international instruments explicitly reference the right to death registration. However, this right is implicit in article 12(2)(a) of the International Covenant on Economic, Social and Cultural Rights, which stipulates that States parties must adopt measures to reduce stillbirths and infant mortality, the monitoring of which is linked to death registration.
Marriage	Under the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, states must take effective actions, including enacting legislation, to ensure all marriages are registered in an appropriate register by a competent authority. This registration helps ensure that both parties are recognized as spouses under the law and able to enjoy all the rights that stem from the marriage. The rights to marry and found a family extend to all men and women of marriageable age, without any limitation due to race, nationality, or religion or other characteristics based on the principles of non-discrimination.

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[15] United Nations Children's Fund (2013). *A Passport to Protection: A guide to birth registration programming.* Available at https://www.getinthepicture.org/resource/unicef-passport-protection-birth-registration-programming-guide.

[16] United Nations Department of Economic and Social Affairs (2019). *Guidelines on the Legislative Framework for Civil Registration, Vital Statistics and Identity Management,* second draft. Available at https://unstats.un.org/unsd/publications/catalogue/.

[17] Ibid, paragraph 123.

[18] United Nations (1976). *International Covenant on Civil and Political Rights*, Article 25. Available at https://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx.

Right to register	Description
Divorce	Whether through divorce, annulment, judicial separation, or other mechanism for dissolution of a marriage under national law, both men and women must be treated equally before the law. The UN General Assembly Resolution 843 (IX) of 1954 urged governments to establish a register of divorces. In its resolution 1068 F of 1965, the Economic and Social Council recommended that, "A divorce or judicial separation shall be granted only by a competent judicial authority and shall be legally recorded."
Other vital events	The rights to register the priority vital events are guaranteed either explicitly or implicitly under international law. Registering other key vital events may be classified as an amendment or modification of a previously registered vital event's record. For example, judicial separation and annulment provide updated information on the status of a marriage registration record. Similarly, adoption, legitimation and recognition modify birth records.[19]

18 not to take direct part in armed conflict[20] requires a birth certificate to ascertain the age of the person; and the right to acquire family benefits[21] may require marriage or death certificates. When the rights to registration are established, the rights that depend on registration may be easier to obtain.

2.4 The link between civil registration and civil identification systems

Countries in South Asia are strengthening not only civil registration, but civil identification systems as well.[22] The relationship and interdependency between these two systems, called an 'identity management system', should be considered in the development of the legislation. The preferred identity management model is the establishment of identity by timely birth registration which leads to a unique and secure legal identity.

A well-functioning CRVS system covers a country's entire population, including non-citizens,

throughout the life course of every individual. So, integrating civil identification and CRVS systems helps ensure that all people, including hard to reach and marginalized groups, women, children, and the poor have access to proof of legal identity.[23]

By using civil registration as the entry (births) and exit (deaths) points for a civil identification system, security will be enhanced, as removing people from the civil identification system after death helps protect against identity theft and fraud. At the same time a birth certificate has legal sanctity as a person's first recognition before the law.

Importantly, linking civil identification with civil registration and vital statistics systems is a more efficient use of resources than establishing separate systems.

There can be challenges and opportunities in the relationship between the two systems.

[19] United Nations (2002). *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict,* Article 1. Available at https://www.ohchr.org/EN/ProfessionalInterest/Pages/OPACCRC.aspx.

[20] United Nations (1979). *Convention on the Elimination of Discrimination against Women,* Article 13a. Available at https://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx.

[21] United Nations Department of Economic and Social Affairs, Statistics Division (2019). *Guidelines on the Legislative Framework for Civil Registration, Vital Statistics and Identity Management,* second draft. Available at https://unstats.un.org/unsd/publications/catalogue/.

[22] Harbitz, Mia (2019). *Relationship Between Civil Registration and Civil Identification.* Published in *Civil Registration in South Asia: Coordination, Connections and Collaboration.* Available at http://getinthepicture.org/resource/civil-registration-south-asia-coordination-connections-and-collaboration.

[23] Centre of Excellence for CRVS Systems (n.d.). *Legal identity for all: Why we need to link CRVS and ID management systems.* Available at https://crvssystems.ca/blog/legal-identity-all-why-we-need-link-crvs-and-id-management-systems.

For example, if the civil identification system is well developed it can be used to verify data entries into the civil registration system, or vice versa. Also, synchronizing some of the data between the two systems can rule out data duplication. If a country has both systems, it is beneficial for the unique identification number to be distributed at birth registration by the civil registration system and be common to both the civil registration and civil identity systems.

The safest way to ensure the right person gets the correct identity card is to have universal birth registration and introduce a unique identity number (UIN) from birth, both on the birth certificate and in the person's record in the civil registry.[24] The relationship between civil registration and civil identification would be considered in the reform of the legal framework.

The two systems do not duplicate each other but complement each other and contain different attributes of an individual based on the purpose of the registries. Further they may not include all the same individuals, with the systems holding information primarily on vital events that occurred in the country, while the civil identification system primarily holds information of citizens in a country. While both are important systems in a country, the civil registration system is the foundational register. It is important to clearly define it as such in the civil registration legislation.

2.5 Current civil registration legislation in South Asia

The civil registration legislation should provide clear and specific guidance on (i) type of organizational structure adopted for the civil registration system in the country or area, (ii) the rights and obligations of all parties when carrying out its provisions, (iii) the types of vital events that must be registered, (iv) their definitions, (v) the designation of informants for each type of event, (vi) the time allowances for registering each type of vital event, (vii) procedures for late registration, (viii) the registrars' duties and (ix) the storage and preservation of records.[25]

Table 4 provides on overview of whether provisions for the nine areas, as mentioned above, are considered in the current civil registration legislation in South Asia. In addition to these nine areas, five additional areas were considered (legal obligation to register, process for data access, process for data processing to third parties, civil registration as foundational register and the role of ICT). Table 4 merely indicates whether provisions for these areas are mentioned in national legislation. The indication of the presence of definitions of vital events in current legislation does not necessarily mean that these definitions correspond with UNDESA definitions.[26]

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[24] Harbitz, Mia (2019). Civil Registration in South Asia: Coordination, Connections and Collaboration. Published in Civil Registration in South Asia: Coordination, Connections and Collaboration. Available at http://getinthepicture.org/resource/civil-registration-south-asia-coordination-connections-and-collaboration.

[25] United Nations Department of Economic and Social Affairs, Statistics Division (2014). *Principles and Recommendations for a Vital Statistics System, revision 3*. Available at https://www.un.org/development/desa/capacity-development/tools/tool/principles-and-recommendations-for-a-vital-statistics-system-revision-3/.

[26] For a review of the alignment for the UNDESA recommendations see United Nations Children's Fund Regional Office in South Asia (2019). *Status of Civil Registration and Vital Statistics in South Asia Countries.* Available at https://www.unicef.org/rosa/reports/status-civil-registration-and-vital-statistics-south-asia-countries.

Table 4: Overview of inclusion of provisions in current civil registration legislation related to birth, death, marriage and divorce in South Asia[27]

Areas mentioned in current CR legislation	Afghanistan	Bangladesh	Bhutan	India	Maldives	Nepal	Pakistan	Sri Lanka
Organizational structure type	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Right/obligations parties involved (within organizational structure)	Yes	No	No	Yes	Yes	Yes	Yes	Yes
Legal obligation to register	Yes (birth/ death/ divorce/ marriage)	Yes (birth/ death)	Yes (birth/ marriage) No (death	Yes (birth/ death) No (marriage)	Yes (birth/ death/ marriage)	Yes (birth/ death/ marriage)	Yes (birth/ death/ marriage)	Yes (birth/ death/ marriage)
Definitions vital events	No	Yes	No	Yes	No	No	No	No
Informants for each vital event	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
Time for registration vital events	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
Late registration procedures	Yes	Yes	Yes (not for death)	Yes (Not for marriage)	Yes (not for death)	Yes	Yes	Yes
Registrars duties	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
Storage and preservation of the records	Yes Database	Yes Books	No -	Yes Books	Yes Database	Yes Books	Yes Database	Yes Paper
Process data access	No	No	No	No	Yes	No	No	No
Process for data processing	No	No	No	No	Yes	No	No	No
CR as foundational register	No	No	No	No	Yes	No	No	No
Role of ICT	No	No	No	No	Yes	No	No	No

Source: Author's review of relevant legislation for South Asian countries.

Table 4 shows that among the CR8 countries, only Maldives explicitly assigns the civil registration system as the 'foundational register'. Moreover, none of the current legislation explicitly mentions data protection (data access and data processing) and the role of ICT in the collection, quality maintenance, or the storage and archiving of data and/or documents. These omissions are particularly concerning in light of the importance of these areas in maintaining the continuity and confidentiality of civil registration.

All countries have a specific civil registration legal framework in place for birth, death and marriage registration, except for Bhutan where the only reference to birth registration is made in the Bhutan Citizen Act. For death registration in Bhutan, there is a form in the census handbook. Further, the use

[27] The overview presented is not a comprehensive analysis of the legal framework in respective countries in South Asia. The overview does not include other national legislation related to vital events (divorce, annulment, separation, adoption, legitimation, recognition) and secondary legislation and/or administrative guidance on vital events.

of civil registration for the establishment of vital statistics is usually not mentioned in the legal acts and the definition of vital events, if provided, is not in compliance with international definitions.[28]

As shown in Table 5, the legislation related to civil registration in South Asia for some countries is outdated. This is particularly true for legislation on registration of marriage. Several countries have primary legislation

Table 5: Overview major legislation on civil registration in South Asia, by year of most recent legislation

Country	Primary CRVS legislation and regulations (year enacted)
Afghanistan	**Birth/Death, Marriage Registration** • Law on Registration of Population Records, 2014, amended in 2018

Bangladesh	**Birth/Death Registration**
	• The Births and Deaths Registration Act, 2004, entered into force 3 July 2006, amended in 2013
	• The Births and Deaths Registration Rules, 2004 entered into force 2017, amended 2018
	
	Marriage/Divorce Registration
	• PERSONAL LAWS
	  • Muslims: Muslim Marriages and Divorces (Registration) Act, 1974
	  • Hindus and Buddhists: Hindu Married Woman's Right to Separate Residence and Maintenance Act, 1946
	    Hindu Marriage Registration Act 2012
	  • Christians: Christian Marriage Act, 1872 / Divorce Act, 1869
	• CIVIL LAWS
	  • Special Marriage Act, 1872
	  • Child Marriage Restraint Act No. XIX, 2017
	  • Family Courts Ordinance, 1985
	  • Guardian and Wards Act, 1890

Bhutan	**Birth Registration** • The Bhutan Citizens Act, 1977 • The Child Care and Protection Act 2011 **Death Registration** • The Census Handbook, 1993 **Marriage Registration** • Marriage Act, 1980
India	**Birth/Death Registration** • The Registration of Births and Deaths Act (RDB), 1969 **Marriage Registration** • Hindu Marriage Act, 1955 • Special Marriage Act, 1954 • Parsi Marriage and Divorce Act, 1936 • Indian Christian Marriage Act, 1872
Maldives	**Birth/Death Registration** • Law on birth registration and death certification, 1993 **Marriage Registration** • Family Act 4/2000, in force 1 July 2001
Nepal	**Birth/Death/Marriage Registration** • Births, Deaths and Other Personal Events (Registration) Act, 1976, amended in 1991 • Births, Deaths and Other Personal Events (Registration) Regulation, 1977 • Marriage Act 1971
Pakistan	**Birth/Death/Marriage Registration** Local Government Act (Punjab/KP/Sindh LG Acts 2013, Balochistan LG Act 2010, Gilgit Baltistan LG Act 2014)
Sri Lanka	**Birth/Death Registration** Births and Deaths Registration Act No.17, 1951 **Marriage Registration** Marriage Registration Ordinance, 1908 Muslim Marriage and Divorce Act, 1954 Kandyan Marriage and Divorce Act

Source: Author's review of relevant legislation for South Asian countries.

[28] United Nations Children's Fund (2019). *Status of Civil Registration and Vital Statistics in South Asia Countries.* Available at https://www.unicef.org/rosa/reports/status-civil-registration-and-vital-statistics-south-asia-countries

enacted prior to 1980. This suggests that civil registration in countries in South Asia may be operating under a legal framework that does not reflect current concerns or practice. For example, both Bangladesh and India have references in the legislation to the 'use of books' but in practice also make use of ICT in their registration processes.

Many countries in the region are engaging in legal reform. Table 6 gives an overview of recent or planned legal reviews in South Asia.

Table 6: Recent or planned legal developments

Country	Current country situation
Afghanistan	Afghanistan is considering amending the current legislation to establish CR as the foundational register and to consider possibilities to expand the inclusiveness of persons.
Bangladesh	No recent changes or planned changes foreseen.
Bhutan	No recent changes or planned changes foreseen.
India	Divorce Act (1869), Dissolution of Muslim Marriages Act (1939), The Special Marriage Act (1954), The Hindu Marriage Act (1955) and The Hindu Adoptions and Maintenance Act (1956) have been amended with PERSONAL LAWS (AMENDMENT) ACT, 2019, which has been passed by the Parliament of India on 21 February 2019.
Maldives	The Government of the Maldives is considering an overall review of the country's legislative framework. Possibly the CR legislation will be part of the review. Data protection legislation is expected to be part of the review.
Nepal	No recent changes or planned changes.
Pakistan	In depth analysis is made of the CR legal framework in 2019 with support of UNICEF. Based on the report, changes have been proposed to the legal framework. These changes are sent for approval to parliament. Approval is expected in 2020.
Sri Lanka	No information, as Sri Lanka was not present for the regional meeting of civil registration professionals in Maldives, November 2019.

Source: Author's discussion with participants during the meeting of Civil Registration Professionals of South Asia in November 2019.

An area where legislation needs to catch up with wider developments is that of confidentiality and privacy. The term 'privacy' generally denotes the fundamental right[29] of individuals to create boundaries limiting access to their person, communications or personal information.[30] The burden for creating these boundaries of privacy falls on the individuals themselves. Everyone must make his or her own determinations as to who can access

> **Box 1: Challenges to improve civil registration in India**
>
> India has recognized some challenges in the civil registration processes and the policy environment that may inform civil registration reform. Specifically; (i) the rapid development of the IT sector and the related need to modify the Registration of Births and Deaths Act to absorb the technology; (ii) the need to treat electronic registration, digital birth/death certificates, etc. as legal documents; (iii) the need for synergy between the Registration of Births and Deaths Act and the Information and Technology Act 2000; (iv) the need to link vital records with National Population Register and other data bases; and (v) ensuring the privacy and security of individual information.
>
> Source: Joshi, Dr. Vivek (2019). *Civil Registration in India: Legal provisions*. Presentation to the Civil Registration Professional of South Asia meeting, Maldives, November 2019. Available at https://getinthepicture.org/resource/second-meeting-civil-registration-professionals-south-asia-cr8.

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[29] Privacy is recognized as a fundamental right in the *UN Convention on the Rights of the Child*, Article 16. Available at https://www.ohchr.org/en/professionalinterest/pages/crc.aspx.

[30] Privacy International (n.d.). *What is Privacy?* Available at https://privacyinternational.org/explainer/56/what-privacy.

their information, how much access is granted and when to terminate access.

However, individuals do not make choices in a vacuum. Technology, for example, with its ever-increasing ability both to protect and invade privacy, is entangled with personal privacy choices in new and challenging ways. It is therefore important for agencies and ministries tasked with collecting personal information to emphasize data confidentiality [31] rules to complement personal privacy choices and protect the information collected.

In line with the principles for civil registration, provisions for confidentiality of information and protection of the privacy of individuals should also be contained in the civil registration law. Determination of who shall be entitled to copies of vital records and who shall have access to information from the register about

individuals, other than themselves, should be clearly set out in the law or in supporting regulations. Included in these provisions should be appropriate mechanisms for the transfer of files of vital event records among government agencies for authorized purposes, and procedures for access to or release of files for approved research, consistent with overall confidentiality protection, particularly to the vital statistics system for the production of continuous vital statistics.[32]

Afghanistan and Maldives do not have data protection legislation in place, and in Pakistan it is currently only in draft form. The civil registration legislation must, at minimum, be compliant with the data protection legislation. It may exceed this in order to maintain the principle of the registry being confidential. In those countries without a data protection law,

Table 7: Status on data protection

Country	Data protection legislation
Afghanistan	No, although the right to privacy is implicitly provided for in the Constitution, where article 37 guarantees the right to confidentiality of personal correspondence.
Bangladesh	Recently passed the Digital Security Act 2018 (the 'Act'), to ensure national digital security and enact laws regarding digital crime identification, prevention, suppression, trial and other related matters. This Act also contains provision for the protection of identity Information.
Bhutan	The Bhutan Information Communications and Media Bill 2016 contains chapters on data protection, cybercrime, e-governance, electronic signature.
India	The Personal Data Protection Bill approved on 4 December 2019 will provide a framework for the handling of personal data, including its processing by public and private entities.
Maldives	No.
Nepal	Article 28 of the Constitution declares the right to privacy and protection of information as a fundamental right. The Individual Privacy Act 2018 ("Privacy Act") was introduced with the purpose of giving effect to the constitutional right.
Pakistan	The draft Personal Data Protection Bill 2018 is modelled on the European Union General Data Protection Regulation (GDPR).
Sri Lanka	The Ministry of Digital Infrastructure and Information has introduced the final draft of the Personal Data Protection Bill. The proposed legislation regulates the processing of personal data, strengthening rights of data subjects and regulating the dissemination of unsolicited messages using personal data. The Bill was modelled after international practices including GDPR. Once ratified, it will be implemented in stages over three years.

Source: Author's discussions with participant during the 2019 Meeting of the Civil Registration Professionals of South Asia (CR8), Maldives.

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[31] Privacy International (2018). *The Keys to Data Protection: A Guide for Policy Engagement on Data Protection.* Available at https://privacyinternational.org/data-protection-guide.

[32] United Nations Department of Economic and Social Affairs, Statistics Division (2014). *Principles and Recommendations for a Vital Statistics System, revision 3.* Available at https://www.un.org/development/desa/capacity-development/tools/tool/principles-and-recommendations-for-a-vital-statistics-system-revision-3/.

the civil registration law needs to include data protection clauses in order to maintain confidentiality of data.

Regarding the role of ICT and treating the electronic register as legal documents, it is important to understand that the optimal use of an electronic document management and archiving system can meet legal obstacles. Usually the introduction of an electronic system will also prescribe what needs to happen with the paper documentation.

Before the implementation of an electronic system, the legal limitations of a country on the use of electronic management and archiving must be analyzed. The reason for this is the legal problem of dealing with the question of evidence related to electronic information. Reasonable certainty must exist that a country's judicial system will accept electronically stored information as evidence for legal disputes.

3. Considerations when reviewing civil registration legislation

In any legislation review the principles of civil registration need to be maintained. The civil registration system should further be recognized as the foundational registry from which information will be pivotal for the civil identification system and the vital statistics system. From the above discussion, several areas need to be considered in any review of the civil registration legislation in South Asia:

- The requirement to consider data protection legislation and for the civil registration laws to align with or exceed

Box 2: Could marriage licences help end child marriages?

Civil registration needs to be considered within the broader social context. In South Asia where ending child marriage is an important objective,[33] the process of marriage registration may support this policy reform. In the Philippines, the obligation for couples to obtain a marriage licence is a formal requisite for marriage. The marriage licence will be issued after completion of the period of publication.[34] The principle of a marriage licence before marriage is not uncommon. In the Netherlands and Belgium, the deposition for marriage is a statutory requirement to formally register the intention to marry. In the Nordic countries, Kosovo, and Albania, a marriage permit is required before a marriage can take place. Also, in the USA the registration of the intention to marriage needs to take place before a marriage can occur (minimum 48 hours after the marriage intention is registered). This practice is not present in any country in South Asia. If introduced, it needs to be legally arranged in legislation.

this to ensure the confidentiality of the data collected, maintained and processed by (different) governmental bodies, as well as by third parties if engaged.

- The relationship with international agreements, if a party to it, as well as other national laws, particularly those related to civil identification, and other functional registries.

- The need to consider rapidly changing technologies. This includes the use of ICT as an enabler for civil registration. Reference to ICT should be as general as possible in

[33] South Asia Initiative to End Violence Against Children (2014). K*athmandu Call to Action to End Child Marriage in South Asia*. SAIEVAC/SAARC Regional Action Plan to End Child Marriage in South Asia 2015-2018. Available at http://saievac.org/download/kathmandu-call-for-action-to-end-child-marriage-in-south-asia-2014/.

[34] Sollesta, Fred (2019). *The Registration of Marriage and Dissolution of Marriage in the Philippines*. Presentation to the Civil Registration Professionals of South Asia meeting, Maldives, November 2019. Available at https://www.getinthepicture.org/resource/second-meeting-civil-registration-professionals-south-asia-cr8.

the civil registration legislation, rather than specifically just focused on the role of ICT in collection, storage, maintaining and preservation of data. The legislation or related regulations needs to account for transitions between different technologies, particularly for document management and archiving.

- The legislation needs to be such that a country's judicial system will accept electronic stored information as evidence for legal disputes.

- The relationship with other policy directions, such as ending child marriage, to which civil registration is contributing.

- In general, civil registration legislation should also not contain specifications of forms used in registration processes, documents required in processes, etc. These specific issues should rather be described in regulations and/or operational procedures that usually do not require involvement of parliament and therefore can more easily adjusted if needed.

Where dated and fragmented legislation is in place, the creation of one single comprehensive civil registration law could be a point for consideration. The comprehensive civil registration law could outline the legal principles through several logical subsections. The UN Guidelines on the Legislative Framework for Civil Registration, Vital Statistics and Identity Management provides a framework divided into eight subsections: (i) general provisions and administrative infrastructure, (ii) civil registration, (iii) identity management, (iv) population register, (v) vital statistics, (vi) data protection, privacy and security, (vii) compliance, enforcement, rights and remedies, and (viii) transitional provisions. The individual subsections on civil registration, identity management, vital statistics, and population register may be used to guide the drafting of one comprehensive law or to draft or amend separate laws on each of the topics.[35]

There are also additional areas for review, each recognizing that in an environment of greater mobility and technology employment, additional attention to how data privacy and cross border movement can be dealt with in legislation is required.

3.1 Data Protection
Digitization of data has also 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 data leaks, hacking and other unauthorized access and use. Privacy principles that apply to personal data are evolving. In South Asia, the increase in the use of ICT draws attention to the requirement for data protection.

3.1.1 Principles for data protection
In recent years principles for data protection have been developed regionally and globally, recognizing that data is crossing borders. The Organisation for Economic Co-operation and Development (OECD) in 2013 adopted Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data.[36] These Guidelines recognize the fundamental value of privacy yet acknowledge how the

[35] United Nations Department of Economic and Social Affairs, Statistics Division (2019). *Guidelines on the Legislative Framework for Civil Registration, Vital Statistics and Identity Management*, second draft. Available at https://unstats. un.org/unsd/publications/catalogue/.

[36] Organisation for Economic Co-operation and Development (n.d.) *OECD Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data.* Available at https://www.oecd.org/sti/ieconomy/oecdguidelinesontheprotectionofprivacyandtransborderflowsofpersonaldata.htm.

innovative use of personal data can bring social and economic benefits.

In April 2016, the European Union adopted the General Data Protection Regulation (GDPR),[37] which came into force in May 2018 and strengthens individual rights as well as facilitates businesses by articulating common rules for companies and public bodies.

As an example, article 5 of the GDPR provides several clear principles that could be considered for inclusion into legislation, be it national privacy legislation to which the civil registry legislation refers, or directly in the civil registration legislation. The article requires that personal data will be:

- processed lawfully, fairly and in a transparent manner in relation to the data subject ('lawfulness, fairness and transparency')

- collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes ('purpose limitation')

- adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ('data minimization')

- accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay ('accuracy')

- kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed ('storage limitation')

- processed in a manner that ensures appropriate security of the personal data, including protection against unauthorized or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organizational measures ('integrity and confidentiality').

3.1.2 Consent data subject for data processing

Next, to the data protection principles, another topic that requires attention is the requirement for consent of the person (data subject) for processing data. This is also relevant in the case of cross-border movement and request for data exchange between responsible institutions on a person. Article 4 of the GDPR defines consent as follows:

'consent' of the data subject means any **freely given, specific, informed** and **unambiguous** indication of the data subject's wishes by which he or she, by a statement or by a **clear affirmative action**, signifies agreement to the processing of personal data relating to him or her.[38]

Consent should be given by a clear affirmative act establishing a freely given, specific, informed and unambiguous indication of the person's agreement to the processing of personal data relating to him or her, such as by a written statement, including by electronic means, or an oral statement.

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[37] European Union (2016). *Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016.* Available at https://eur-lex.europa.eu/eli/reg/2016/679/2016-05-04.
[38] Ibid.

3.1.3 Verification and Authentication

When considering document verification and/ or authentication, data security and data privacy should be key considerations. These include what types of information can be processed between institutions and countries, and how that information will stay protected.

ICT has made it possible to move large amounts of data rapidly and has the potential to streamline and simplify information sharing, but it also comes with some risks in terms of data security and the privacy of an individual's data. This calls for reflection on confidentiality; the data is owned by the person who provided it and what can be shared with others is only within the scope of what the individual initially agreed could be shared. The financial and human resources costs to enact such data sharing and to ensure privacy and security should not be ignored.[39]

One of the key changes brought into the GDPR is that of 'Privacy by Design.' Organizations will now be obliged to account for data privacy during system design stages, along with the lifecycle of the relevant data process. 'Privacy by Design' is already a well-known term within both legal and technical communities. The GDPR merely provides the recognition of this right and how it is to be enforced.

Verification refers to ensuring that the information provided on a document is accurate, such as a date of birth. An example is the registrar checking whether the biographical information on the birth certificate corresponds to the live birth certificate. Verification processes can be: Ad hoc (organizations can only check/search for information); continuous (organizations require up-to-date information continuously); or periodic (organizations only require information at certain moments annually).[40] Regardless of the process, legislation or regulations need to be in place to facilitate any type of verification. In addition, any agreed data processing between parties requires a separate formal agreement describing the responsibilities and conditions under which the data processing takes place.

The Apostille Convention (also known as the 'Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents') facilitates the cross-border authentication of public documents between States party to the Convention. It does so by replacing the cumbersome and often costly formalities of a full legalization process (chain certification) with the issuance of an Apostille (also called 'Apostille Certificate' or 'Certificate').

Birth, death and marriage certificates are examples of public documents for which an Apostille Certificate can be issued. The Convention has 117 Contracting States, with India currently being the only State from South Asia.[41] In addition, the Apostille process authenticates documents to be valid in all countries part of the Apostille Convention, while legalized documents are only valid for a specific country.

3.2 Migration, civil registration and legal status

A challenge in civil registration can be the lack of clarity concerning the scope and population coverage of civil registration laws. In accor-

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[39] United Nations Children's Fund and United Nations Economic and Social Commission for Asia and the Pacific (2019). *Civil Registration in South Asia: Coordination, Connections and Collaboration.* Available at http://getinthepicture.org/resource/ civil-registration-south-asia-coordination-connections-and-collaboration.

[40] Ibid.

[41] Permanent Secretary of the Hague Conference on International Private Law (29 July 2019). *HCCH Conventions: Signatures, Ratifications and Accessions.* Available at https://www.hcch.net/en/instruments/status-charts.

dance with the principles of civil registration and reflecting the human rights framework, all vital events in a territory should be registered in that territory.[42] While actual practice varies, all non-citizens in South Asian countries, except Bhutan,[43] are legally required to register births, deaths and marriages.[44]

For example, in Bangladesh, by law all births and deaths on the territory should be registered, yet in practice, the registration of the Rohingya refugees[45] and the Bangladesh population in the region of Cox's Bazaar was suspended on 25 August 2017. This is currently being challenged in the Bangladesh Supreme Court.[46] Meanwhile in Bhutan, foreigners and non-Bhutanese spouses are not registered through the normal system. These vital events are currently collected and registered in the Immigration Information and Monitoring System.[47]

Most migration in South Asia is internal.[48] This migration could be permanent and yet when a vital event happens, they may not have lived in that location long enough to be considered permanent by law or may not have officially moved their residence. The legislation in India and Sri Lanka accommodates this as the birth is registered where it happened.[49]

However in Maldives, Nepal and Pakistan, it is registered in the 'usual residence' which may not be where the parent is currently living.[50] In Bangladesh a birth could be registered in either location, and yet the interpretation of this is at the discretion of the registry office at the decentralized level.[51] The introduction of ICT may help eliminate the debate on the place of registration, with the possibility to transmit the information within the civil registry to various locations. Therefore, while allowing registration in any location, the registration process becomes less cumbersome and may have a positive effect on registration levels.

To maintain the integrity of the civil registry to produce vital statistics, and to ensure that all have registration documents as a right and to access other rights, clarity on the registration of all vital events is required in the law. One option for those who are not usually in a country is to include a status provision, other than being resident or citizen, that enables the registration of persons. Enabling such status provision and subsequent registration, should not lead to exclusion of rights to persons or groups of persons. Norway provides an interesting example on preventing under-registration by providing persons with

[42] United Nations Department of Economic and Social Affairs, Statistics Division (2014). *Principles and Recommendations for a Vital Statistics System, revision 3.* Available at https://www.un.org/development/desa/capacity-development/tools/tool/principles-and-recommendations-for-a-vital-statistics-system-revision-3/.

[43] The birth of a child whose parents who are not citizens of Bhutan would not be registered but the hospital may issue a birth notification. See United Nations Children's Fund Regional Office in South Asia (2019). *Status of Civil Registration and Vital Statistics in South Asia Countries.* Available at https://www.unicef.org/rosa/reports/status-civil-registration-and-vital-statistics-south-asia-countries.

[44] Ibid.

[45] Referred to as 'Forcibly Displaced Myanmar Nationals' by Bangladeshi authorities.

[46] The Daily Star (2019). *HC issues rule for resuming birth registration in Cox's Bazar.* Available at https://www.thedailystar.net/country/high-court-issues-rule-resuming-birth-registration-in-coxs-bazar-1823533.

[47] Wangchuk, Thinley (2019). *Civil Registration System of Bhutan: Legal provisions.* Presentation to the Civil Registration Professionals of South Asia meeting, Maldives, November 2019. Available at https://www.getinthepicture.org/resource/second-meeting-civil-registration-professionals-south-asia-cr8.

[48] United Nations Children's Fund (2019). *South Asia Cross-Border Migration Mechanisms: A scoping study.*

[49] United Nations Children's Fund (2019). *Status of Civil Registration and Vital Statistics in South Asia Countries.* Available at https://www.unicef.org/rosa/reports/status-civil-registration-and-vital-statistics-south-asia-countries.

[50] Ibid.

[51] Ibid.

a status provision enabling registration, while avoiding the issue of citizenship or residency registration.

> **Box 3: Birth registration of children of refugees and migrants in Norway**
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> Norway has universal birth registration and every child born in Norway is issued a national identity number and registered in the Population Register. Children born to refugees, migrants and all other persons who are not citizens of Norway have their birth registered and are issued a national ID-number, just like Norwegian citizens, regardless of the legal status of their parents. These children will, however, not have status in the population register as 'resident' in Norway; they will have status only as 'birth registered'. This also applies to cases where the parents are without a legal permit to stay or have an ongoing application to the immigration authorities for residence and work permit. 'Residency' in the population register can be obtained later if the requirements are met, but the ID-number and the birth registration will be valid even without residency. Residency as defined and used by the population register is a legal status indicating an individual's intention of staying in Norway for six months or more. People can thus live in Norway without being a resident but be registered in the population register with a temporary ID-number (D-number). Residency in this sense has a different meaning than having a permit from the immigration authorities. If residency is later granted, the D-number is annulled, and a permanent national ID number issued.

Reflection

CRVS systems do not operate in a vacuum. Rather they operate in a complex environment of political commitment, legal frameworks, cultures and social norms. They must reflect the organizational structure of a country and uphold the principles of civil registration – universal, continuous and permanent, confidential and when these are in place, also compulsory. To be comprehensive, the system needs also to be timely, accurate and trustworthy. It also is affected by wider developments such as the use of ICT, concerns about privacy, and migration. Accommodating these and other relevant developments requires a sound legislative framework.

The legislation needs to be looked at as a comprehensive civil registration framework, and as a process that serves as the main source for establishing legal identity. As the framework for the foundational register, the legislation needs to consider its relationship with civil identification systems as well as other functional databases. This opens many concerns about data protection legislation, and where there is international guidance, that should be considered.

The role of ICT in the collection, storage, maintaining and preservation of data should in general terms be included in the civil registration legislation. With regard to child marriage, the introduction of an obligatory marriage licence before the actual marriage takes place can be further explored. Inclusion of registration of persons, specifically children, can be improved with the introduction of the 'status provision' in civil registration legislation, offering options other than citizenship or residency. Such provision should not lead to exclusion of the rights of persons or groups of persons.

As a system that delivers directly on individual rights and supports the realisation of rights more generally, legislation needs to reflect human rights principles.

THE STATUS OF MARRIAGE AND DIVORCE REGISTRATION [1]

Abstract

Despite laws to protect girls from early marriage, 3 in 10 girls in South Asia still get married below the age of 18 years. Vital statistics, including marriage and divorce statistics, derived from a reliable and integrated civil registration system are critical in this context for effectively planning interventions to address such issues, as well as monitor and evaluate the impact of social protection and health initiatives.

To accelerate and focus efforts on improving civil registration and vital statistics (CRVS) systems in South Asia, the first Ministerial Conference on Civil Registration and Vital Statistics in Asia and the Pacific, held in Bangkok from 24 to 28 November 2014, adopted the Declaration to 'Get Every One in the Picture' in Asia and the Pacific and proclaimed the Asian and Pacific Civil Registration and Vital Statistics Decade (2015-2024).[2] This review of the state of marriage and divorce in South Asia contributes to efforts at all levels to 'Get Every One in the Picture'.

Various studies identified the challenges facing registration of marriage and divorce in South Asia and three broad challenges stand out. First, there are numerous bottlenecks to registration arising from factors such as weak and inadequate legal frameworks to regulate marriage and divorce. Second, socio-cultural systems act

as both facilitators and inhibitors of marriage and divorce registration. Third, systemic factors such as distance to registration centers present access-related obstacles. The role played by marriage and divorce registration in protecting rights of individuals is discussed in this context.

In conclusion, although legislation can bring about significant changes, there is need for additional appropriate enabling environments to reach the desired goal of continuous, permanent, compulsory and universal recording of marriage and divorce registration in South Asia.

1. Overview of Civil Registration and Vital Statistics in South Asia

A credible CRVS system is central to the social development agenda of every country.[3] For instance, communities, governments and donors cannot effectively plan interventions, monitor and evaluate the impact of social protection activities and other health initiatives by relying on a weak system. Despite this stark reality, few countries in South Asia meet the United Nations CRVS standard of "continuous, permanent, compulsory, and universal recording of the occurrence and characteristics of vital events,"[4] which include live births, deaths, fetal deaths, marriages, and divorces.

Generally, the gaps are greatest for marriage and divorce records, with most countries having little or no reliable records. Even when considering the relatively well performing countries, the registration rate for under five year-olds in South Asia stood at 70 percent in 2019 with only 54 percent having a birth certificate.[5] Birth registration in the region has tripled in the last 20 years from about 23 percent to 70 percent, largely driven by improvements in Bangladesh, India and Nepal.

This progress notwithstanding, achievement of universal birth registration by 2030 is likely to be missed for the region.[6] In particular, efforts will need to accelerate dramatically in Afghanistan and Pakistan.

There are 10 vital events, including marriage and divorce registration, recommended for registration by the United Nations. Marriage and divorce registration creates legal documents that are used to establish and protect the civil rights of people. For example, marriage and divorce records provide documentation to aid decisions on alimony and preserve the inheritance rights of individuals. Additionally, a marriage certificate can be used by a spouse as a basis to claim the nationality of a partner.

The statistics obtained from marriage and divorce records are further used to assess social and demographic progress at the local, national and regional levels.[7] Yet, there are a number of barriers to establishing an effective CRVS system in South Asia, including in the political, administrative, geographical, economic, legislative, social and cultural spheres.[8]

[3] United Nations Department of Economic and Social Affairs Statistics Division (2014). *Principles and Recommendations for a Vital Statistics System (Rev. 3)*. Available at https://unstats.un.org/unsd/publications/catalogue/.
[4] Ibid, p. 65.
[5] United Nations Children's Fund (2019). *Birth Registration for Every Child by 2030: Are we on track?*
      Available at https://www.unicef.org/rosa/reports/birth-registration-every-child-2030.
[6] Ibid, p. 29.
[7] United Nations Economic Commission for Africa (n.d.) Marriage and divorce registration. Available at
      https://www.uneca.org/sites/default/files/uploaded-documents/ACS/4th-CoM-on-CRVS/marriage-divorce-registration_eng.pdf.
[8] Serrao, A. and Sujatha, B. R. (2004). *Birth Registration: Background Note*. Available at
      https://unstats.un.org/unsd/vitalstatkb/KnowledgebaseArticle50113.aspx?Keywords=background+note.

This paper reviews the state of marriage and divorce registration in South Asia. Specifically, it focuses on age at marriage, marriage and divorce trends, polygamy,[9] legal and policy frameworks for marriage and divorce registration, and barriers to registration of marriage and divorce. Finally, it places marriage and divorce in the context of CRVS.

Methodology

Information for this paper has come from three key sources. First, the existing literature on marriage and divorce registration was reviewed, including data published in peer-reviewed journals and grey literature. Second, the laws on marriage and divorce in South Asian countries were examined to determine the extent to which they protect individuals, particularly women and girls, in relation to marriage and divorce. Last, interviews were conducted with CRVS officers from South Asia during a three-day meeting in Male, Maldives, between 26-28 November 2019. Officers from seven of

the eight countries in the region provided data and information relevant to their countries.

State of Marriage and Divorce in South Asia

South Asia covers eight countries: Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka. For most of these countries, accurate data on marriage and divorce are lacking. In addition, there are legal bottlenecks in the registration of marriages and divorces, even though only India lacks a legal obligation to register a marriage (see Table 4), a scenario that creates an environment in which less attention is placed on putting these events into the national civil registry.

Age at marriage

All South Asian countries have enacted laws stipulating the legal age for marriage (Table 1). Girls can get married below the age of 18 years in several countries including Afghanistan, Bangladesh, Bhutan, Pakistan and Sri Lanka.

Table 1: Minimum legal age (years) at which marriage can take place in South Asian countries

Country	Without parental consent (age in years)		With parental/court consent
	Women	Men	
Afghanistan	16	18	Girls with parental (father) or court consent can marry at 15 years. Provisions are silent in the case of boys.
Bangladesh	18	21	Girls and boys can marry at a younger age with parental or court consent.
Bhutan	16	18	There are no exceptions to the marriage age. However, for issuance of marriage certificate between a Bhutanese and a foreign spouse the legal age of marriage in Bhutan for both men and women is 18 years.
India*	18	21	There are no exceptions to the marriage age.
Maldives	18	18	The new law, Child Rights Protection Act, 19/2019 explicitly makes marriages illegal below 18 years.
Nepal	20	20	There are no exceptions to the marriage age.
Pakistan	Punjab 16 Sindh 18 Hindu 18	18 18 18	There are no exceptions to the marriage age.
Sri Lanka	18	18	No minimum for Muslim marriages (the Muslim Marriage and Divorce Act regulates Muslim marriages and does not set a minimum age of marriage.)

*The Supreme Court of India is considering whether the law discriminates against a boy aged 18 years.
If it rules in favour, this could effectively reduce the minimum age from 21 years to 18 years.

Source: United Nations Children's Fund. (2019b). *Status of Civil Registration and Vital Statistics in South Asia Countries.*

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9 Polygamy is the custom of having more than one wife (polygyny) or husband (polyandry).

Figure 1 below summarizes data on age at marriage for each of the South Asia countries. Overall, despite the laws prescribing minimum age for marriage as shown in Table 1, all countries record marriages below the age of 18 years. While the highest national prevalence of marriage below 18 years is found in Central Africa, in absolute numbers close to half of under-age marriages globally happen in South Asia.[10]

About 8 percent and 30 percent of girls get married before age 15 and 18 years, respectively. On the other hand, just 4 percent of boys get married by 18 years. Data from UNICEF demonstrates that Bangladesh (59 percent) and Nepal (40 percent) have the

highest proportion of girls marrying before their 18th birthday.[11] Maldives has the lowest proportion of girls (4 percent) marrying before 18 years of age, followed by Sri Lanka (10 percent). Since less than 4 percent of the boys in the region get married by their 18th birthday, it is indicative that girls are marrying someone over the age of 18 years, but not necessarily much older.

The relatively low age at marriage is governed by the community's cultural practices and religious influences on laws. The low proportion of boys who get married before 18 years notwithstanding, child grooms are, like child brides, faced with challenges. Child grooms may be forced into adult responsibilities (such
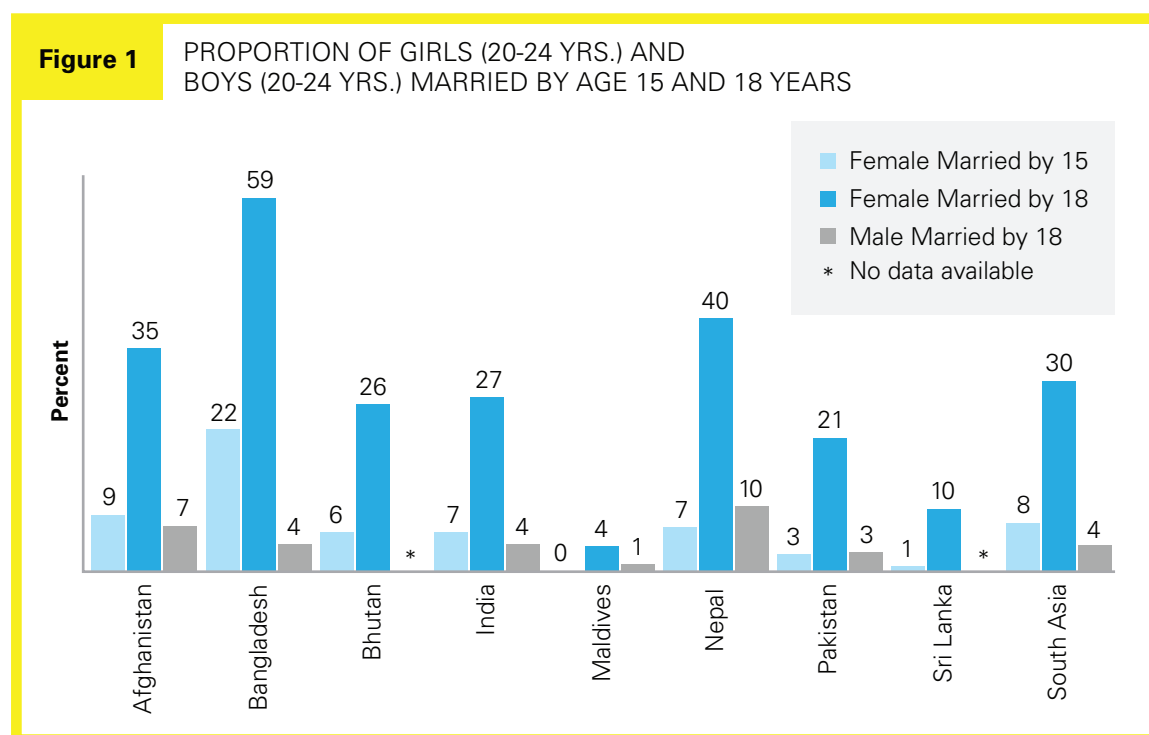
Figure 1 PROPORTION OF GIRLS (20-24 YRS.) AND
BOYS (20-24 YRS.) MARRIED BY AGE 15 AND 18 YEARS

Source: United Nations Children's Fund global databases, 2019, based on: Afghanistan (DHS 2016); Bangladesh (Census 2011); Bhutan (Census 2005); Maldives (Census 2014); Nepal (DHS 2011); Pakistan (DHS 2007); and Sri Lanka (Census 2012).

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10 Marphatia, A. A., et. al. (2017). *Women's Marriage Age Matters for Public Health: A Review of the Broader Health and Social Implications in South Asia.* Available at https://doi.org/10.3389/fpubh.2017.00269.
11 United Nations Children's Fund (2019). *UNICEF global databases*, 2019; based on Demographic and Health Surveys (DHS), Multiple Indicator Cluster Surveys (MICS) and other nationally representative surveys.

as early fatherhood and associated economic pressure) for which they are not prepared. Early marriage may further constrain the boy's academic pursuits and future career advancement.[12]

2. Marriage and Divorce Data in South Asia

Data on age at marriage derived from various census and demographic surveys provide a picture of age at marriage across the region. The singulate mean age at marriage[13] for men and women for each of the South Asia countries shows that generally, marriage occurs after the age of 18 years (Figure 2).

The data show the girls marry earlier when compared to boys. This is also confirmed by other studies.[14]

Earlier ages at marriage are recorded in Bangladesh, Nepal, India, Afghanistan, Bhutan, the Maldives, Pakistan and Sri Lanka, in that order. Generally, this is consistent with data on age at first marriage. Bangladesh, Nepal, Afghanistan, India and Bhutan with relatively higher proportions of girls marrying before 18 years (Figure 1), are clustered in the lower left half of Figure 2.

The proportion of people in marriage changes throughout life. It rises from around 20 percent,

| Figure 2 | SCATTERPLOT OF SINGULATE MEAN AGE AT MARRIAGE FOR MEN AND WOMEN |
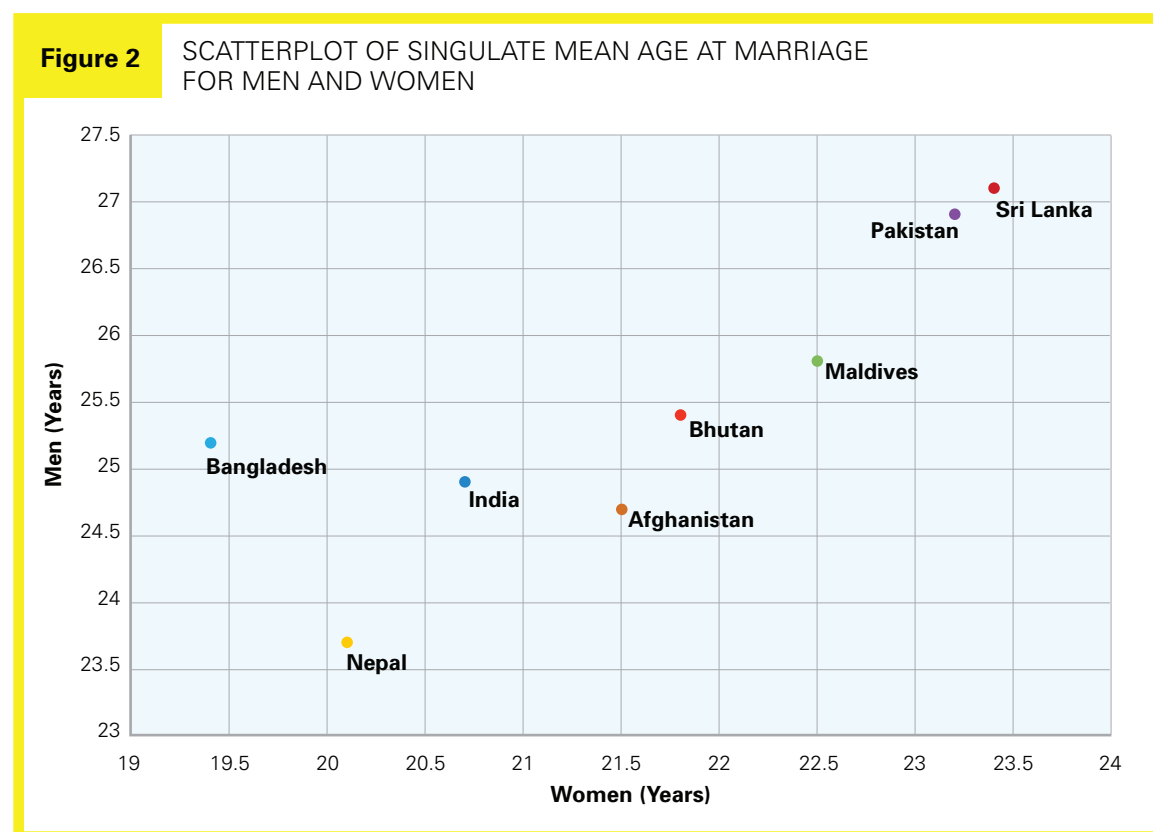
Sources: United Nations Children's Fund global databases, 2019, based on: Afghanistan (DHS 2016); Bangladesh (Census 2011); Bhutan (Census 2005); Maldives (Census 2014); Nepal (DHS 2011); Pakistan (DHS 2007); and Sri Lanka (Census 2012).

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[12] United Nations Children's Fund (2019). Child marriage: *Child marriage is a violation of human rights, but is all too common.* Available at https://data.unicef.org/topic/child-protection/child-marriage/.

[13] The United Nations Department of Economic and Social Affairs defines the "singulate mean age at marriage" as "the average length of single life expressed in years among those who marry before age 50". Available at https://www.un.org/en/development/desa/population/publications/dataset/marriage/age-marriage.asp.

[14] See Marphatia, A. A., et. al. (2017). *Women's Marriage Age Matters for Public Health: A Review of the Broader Health and Social Implications in South Asia.* Available at https://doi.org/10.3389/fpubh.2017.00269.

stabilizing at about 30-54 years before starting to decline. More significantly, there are fewer men than women who are married before age 40 years, while after age 40 years there are more men than women who are in marriage (Figures 3a & 3b). This is, perhaps, a reflection of men marrying younger women when their spouses die while women are likely to remain single following the death of a spouse.
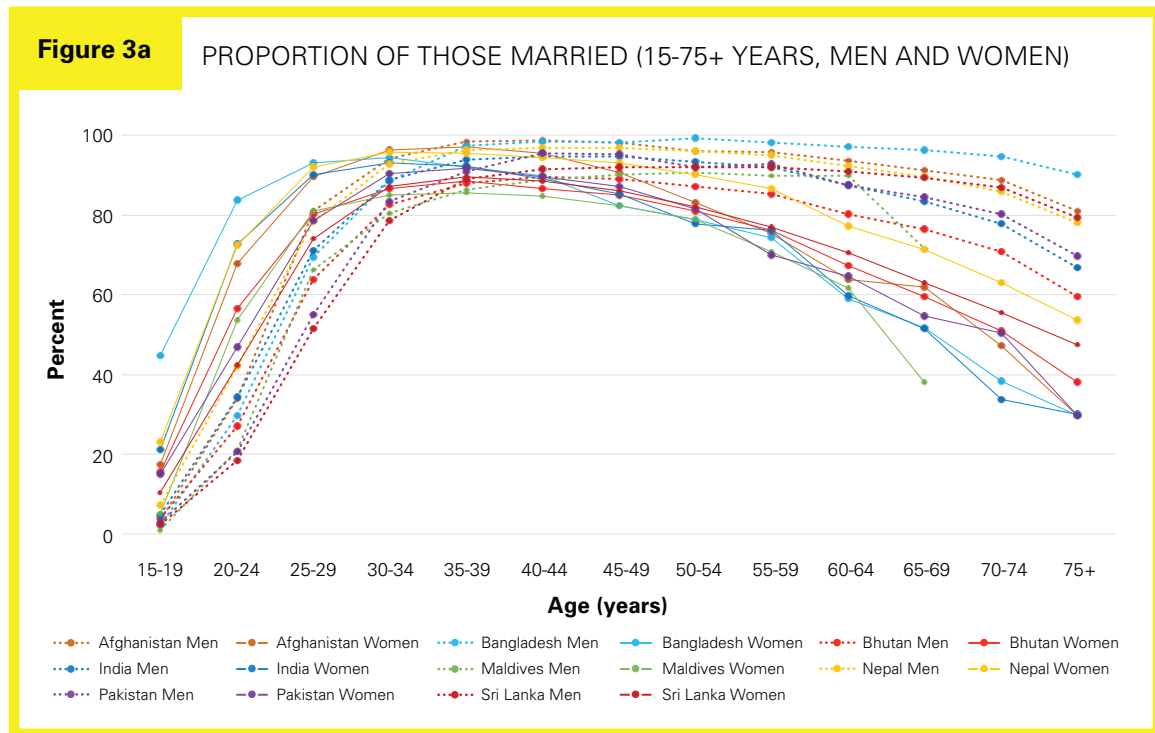
Figure 3a PROPORTION OF THOSE MARRIED (15-75+ YEARS, MEN AND WOMEN)

Sources: National census and DHS surveys in the respective countries.

Figure 3b TREND LINE FOR PROPORTION OF THOSE MARRIED
(15-75+ YEARS, MEN AND WOMEN)
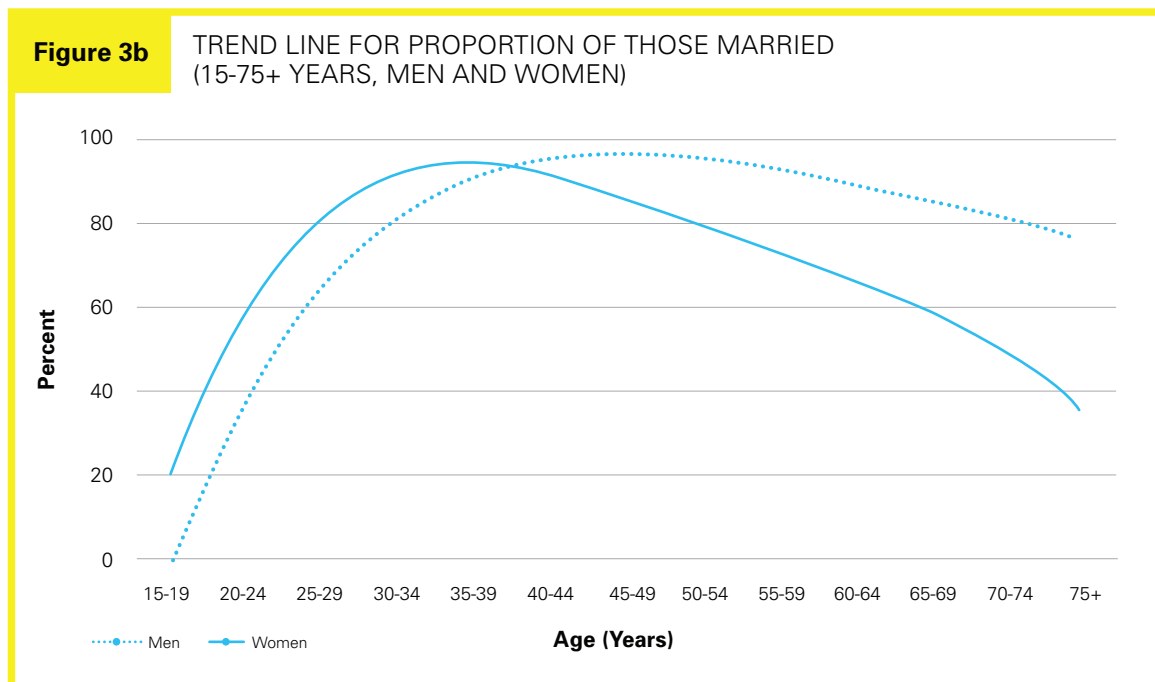
Sources: National census and DHS surveys in the respective countries.

While the trends from 15 years to 75+ years show men remaining in marriage in later years, the average number of people overall who are married at any given time shows that in each country, when compared to men, a higher proportion of women remain married (Figure 4). The lowest proportion of those in union appears to be in the Maldives and Bhutan while Nepal, Afghanistan and Bangladesh tend to have more people in marriage.

Figure 4	SCATTERPLOT OF PROPORTION MARRIED (MEN VS. WOMEN)
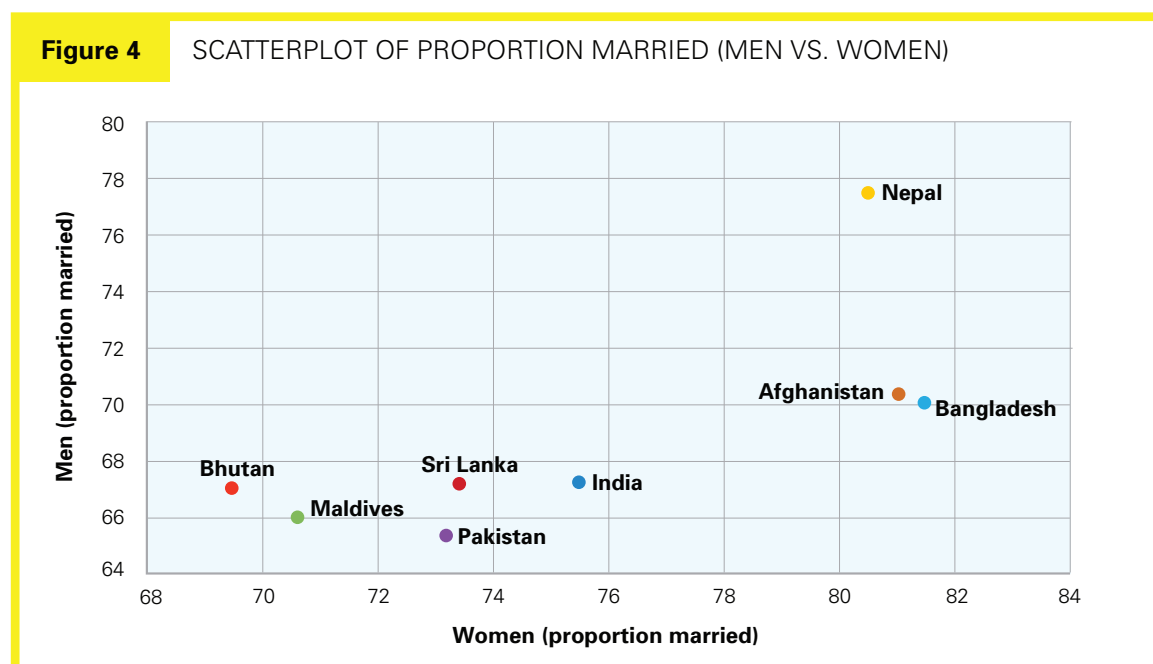
Sources: National census and DHS surveys in the respective countries.

Polygyny in South Asia

Data from various DHS reports (although not available for all countries) shows that polygyny is practiced in South Asia. Table 2 shows data, where available, on polygyny for the countries. Afghanistan records 6.4 percent of marriages as being in a polygynous union.

Bhutan, Bangladesh, Nepal and Pakistan have 5.0 percent, 4.2 percent, 4.0 percent and 3.7 percent, respectively, of marriages reported as being in a polygynous union, while in Maldives the figure is 1.6 percent.

Table 2: Proportion of polygynous relationships in South Asia Region (15-49 years)

Countries	Percent	Data Source
Afghanistan	6.4	DHS 2015
Bangladesh	4.2	MICS 2012-2013
Bhutan	5.0	MICS 2010
India	no data	
Maldives	1.6	DHS 2016-17
Nepal	4.0	DHS 2016
Pakistan	3.7	DHS 2017-18
Sri Lanka	no data	

Sources: National DHS and MICS surveys as indicated above.

Divorce in South Asia

From these data, a higher proportion of women compared to men identify themselves as divorced (Figures 5 and 6). The Maldives tends to have the least stable unions in the region followed by Bhutan and Pakistan.

Bangladesh, Nepal, India, Afghanistan and Sri Lanka have the most stable unions, i.e. the least number of people who are recorded as divorced. The low rate of divorce is confirmed by DHS reports (see for example, Bangladesh DHS 2014) which puts the divorce rate at 0.7 percent for women aged between 15-49 years.[15]

| Figure 5 | PROPORTION DIVORCED (15-75+ YEARS, MEN VS. WOMEN) |
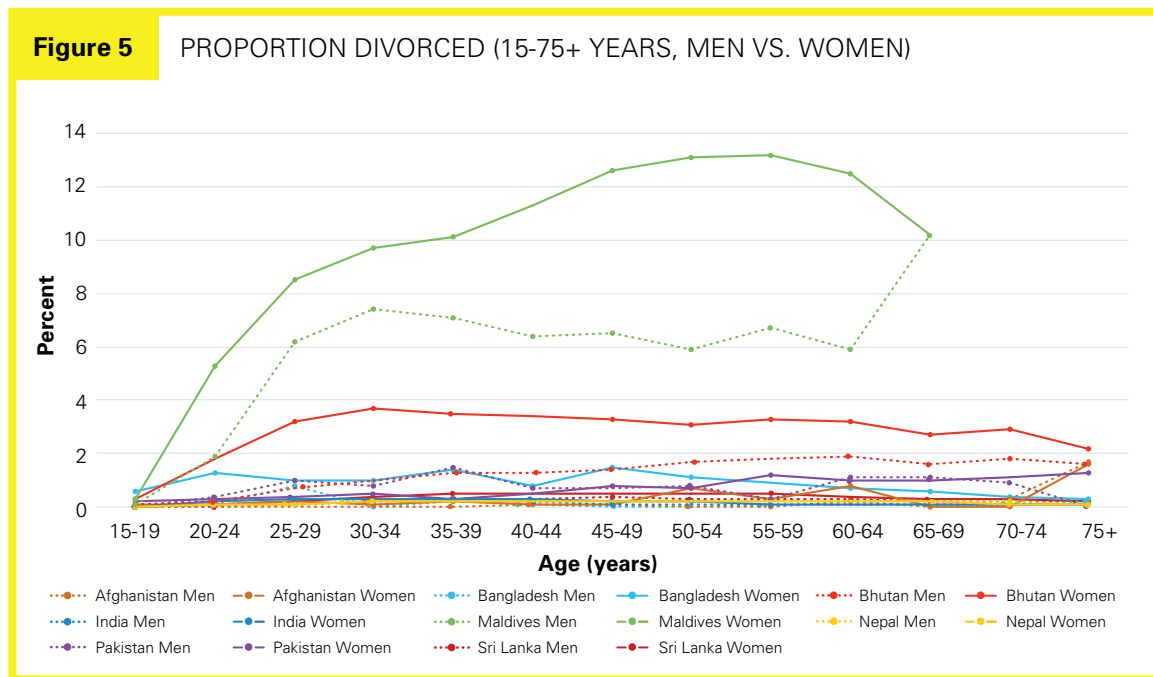
Source: Author's calculations based on national DHS reports for the countries indicated.

| Figure 6 | SCATTERPLOT OF PROPORTION DIVORCED (MEN VS. WOMEN) |
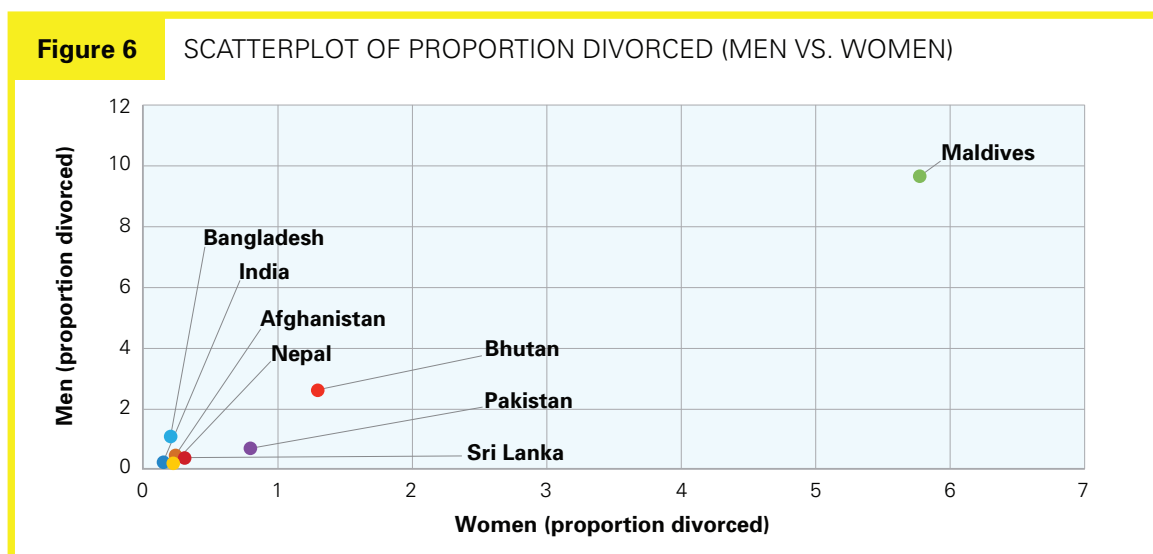
Source: Author's calculations based on national DHS surveys in the countries indicated.

15 National Institute of Population Research and Training, Mitra and Associates, and ICF International (2016).
    Bangladesh Demographic and Health Survey 2014.
    Available at https://www.dhsprogram.com/publications/publication-FR311-DHS-Final-Reports.cfm.

3. Legal provisions for registration of marriage and divorce in South Asia

Provisions for marriage and divorce

The various laws and frameworks for marriage and divorce in South Asia are tabulated below (Table 3). Broadly, the legal frameworks have a religious (e.g., Hindu, Islam or Christian) foundation. This reflects the important influence religion, intertwined with customary practices, has on marriage and divorce in the region; although civil marriages can also be conducted. A review of the relevant laws and legal provisions reveals that when countries do not have a unified legal framework for marriage and divorce, obstacles can be encountered in obtaining the relevant certificates to access assistance such as pensions, welfare payments or widow/widower benefits.

Table 3: Marriage/divorce legal frameworks in different countries

Country	Marriage/Divorce Legal Frameworks
Afghanistan	• Civil Law of 1977 (article 70, 71, 139 & 156). • Principles of Islam (Sharia)
Bangladesh	• Muslim Marriage and Divorces (Registration) Act, 1974 • Child Marriage Prevention Act, 2014 • Child Marriage Restraint Act, 2017 • Hindu Marriage Registration Act, 2012 • Divorce Act, 1869 • Christian Marriage Act, 1872 • Muslim Family Laws Ordinance, 1961 • Dissolution of Muslim Marriages Act, 1939 • Special Marriage Act
Bhutan	• Marriage Act of Bhutan, 1980 (amended 2017) • Penal Code (Amendment) Act of Bhutan 2011
India	• The Hindu Marriage Act, 1955 • Hindu Succession Act, 1956 • Muslim Women's Protection of Rights on Divorce Act, 1986 • Parsi Marriage and Divorce Act, 1936 • Dowry Prohibition Act, 1961 • The Special Marriage Act, 1954 • The Indian Christian Marriage Act, 1872 • Prohibition of Child Marriage Act, 2006 • Sharia and Mohammedan Law
Maldives	• Maldives Family Law Act, 2001 • Child Rights Protection Act, #19/2019 • Principles of Islam (Sharia)
Nepal	• Marriage Registration Act, 2018 • The Social Practices Reform Act, 1976 • National Civil Code (Muluki Ain)
Pakistan	• The Christian Marriage Act, 1872 (Christian) • The Christian Divorce Act, 1869 (Christian) • The Hindu Marriage Act, 2017 • The Child Marriage Restraint Act, 1929 • Parsi Marriage and Divorce Act, 1936 (Parsi) • Dissolution of Muslim Marriages Act, 1939 (Muslim) • Muslim Family Laws Ordinance, 1961 (Muslim) • Family Courts Act, 1964 (Muslim) • Dowry and Bridal Gifts (Restriction) Act, 1976 (All citizens of Pakistan) • Guardians and Wards Act (applicable to all citizens of Pakistan but the communities may follow their own personal law instead)
Sri Lanka	• Muslim Marriage and Divorce Act • Marriage Registration Ordinance, 1908 (General Law) • Kandyan Marriage and Divorce Act • Thesawalamai Law (Tamil inhabitants in Jaffna)

Source: Author's review of South Asian legislation and input from participants during the November 2019 meeting in Maldives.

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[16] United Nations Children's Fund and Economic and Social Commission for Asia and the Pacific (2019). *Civil Registration in South Asia: Coordination, Connections and Collaboration.* Available at http://getinthepicture.org/resource/civil-registration-south-asia-coordination-connections-and-collaboration.

The legal frameworks for marriage and divorce registration for these countries are in place, and except for India, there is a legal obligation on the country authorities to register marriages that occur in the country. However, enforcement of this legal requirement may be problematic for two reasons.

First, there is no sanction for late registration. This situation is compromised further by lack of a central organizational structure in at least four out of the eight countries in the region. Second, and perhaps more critical, are aspects relating to 'use' of marriage registration. In other words, marriage registration is not typically used as a basis for providing services, e.g., issuance of passports after marriage, work permit for spouses, or even in insurance policies among other areas. Consistently requiring a marriage certificate in providing these or other associated services would therefore encourage couples to register marriages.

Table 4: Obligation to register marriages

Country	Marriage and divorce	Legal obligation to register marriage	Fines for late registration	Organizational structure	Records digitalized?
Afghanistan	Ministry of Justice, National Statistics and Information Authority	Immediately (30 days when marriage abroad) (fees apply)	No	Centralized	In progress
Bangladesh	Ministry of Law, Justice and Legislative and Parliamentary Affairs Division. Also, Office of the Muslim Marriage Registrar	30 days (fees apply)	No	Decentralized	No
Bhutan	Royal Court of Justice	Yes (fees apply)	No	Centralized	Yes
India	Registrar of Marriage / Marriage Officer, who is generally the District Magistrate	No (fees apply)	No	Decentralized	Partial
Maldives	Family courts. Also responsible for adoptions	Immediately (2 or 6 months when marriage occurs abroad) (fees apply)	No	Centralized	Yes
Nepal	Ministry of Federal Affairs and General Administration. Dept. of Civil Registration	35 days (free of charge)	Yes	Decentralized	Partial
Pakistan	Ministry of Religious Affairs (at Provincial Level)	Yes (free of charge)	No	Decentralized	No

Source: United Nations Children's Fund (2019). *Status of Civil Registration and Vital Statistics in South Asia Countries, 2018.* Additional input was provided by participants during the November 2019 meeting in Maldives.

While there are laws on marriage and on registration, there is no practice of issuing a marriage licence in South Asia. In the Philippines, couples are obliged to obtain a marriage licence as a formal requisite for marriage.[17] The marriage

Even after making the application to marry another wife, the chairman of the union council is required to form an arbitration council with representatives of both husband and wife/wives in order to establish whether

Table 5: Legal status of polygamy in the eight countries of South Asia

Legal status of polygamy	Countries
Legal	Afghanistan, Bangladesh, Maldives, Pakistan
Legal for Muslims only	India, Sri Lanka
Illegal and practice criminalized by law	Bhutan, Nepal

Source: Social Institutions and Gender Index 2019, OECD Development Centre; Country Profiles.

licence will be issued after completion of the period of publication. This process provides protection for the individuals concerned by ensuring that they are marriageable.

Legal provisions on polygamy

The status of polygamy (more accurately referred to as polygyny when referring to marrying more than one wife) can be grouped into three categories; namely, legal, legal for specific groups, and outlawed. In this context, a majority of countries in South Asia have legal provisions permitting men to have more than one wife (Table 5). Polygamy is generally tolerated among Muslims, where a man can have up to four wives.

In some countries, there are provisions to ensure that a man does not get into another marriage that he cannot sustain. In the Maldives, for example, the law requires that a court assess a man's financial capacity before he can be allowed to take an additional wife.

In Pakistan, on the other hand, a husband who desires to marry another wife must apply and pay a prescribed fee to the local union council for clearance.

there is justification for the proposed marriage. The husband is required to seek and obtain the consent of the existing wife or wives. While failure to get consent will lead to the imposition of penalties, it does not nullify the marriage. The legal provisions governing polygyny disadvantage women as they have fewer options available to them.

Legal provisions on other marriages

The legal provisions reviewed so far target marriages between men and women. A search of the literature does not yield any laws or legal frameworks governing other forms of marriages in South Asia, e.g., for transgender people or for same sex marriages. However, some governments, such as India and Bangladesh, do now recognize the hijras as a third gender. In the case of India, hijras can marry.

In terms of customary marriages, the Hindu Marriages Act provides for solemnization of marriages according to customary rules and ceremonies of the parties. Thus, couples may perform a Brahman marriage in which dowry is not given or Asura marriage in which dowry is paid by the bride's father.

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[17] Sollesta, Fred (2019). *Registration of Marriages and Dissolution of Marriage in the Philippines*.
Presentation to the Civil Registration Professionals of South Asia meeting, Maldives, November 2019.
Available at https://www.getinthepicture.org/resource/second-meeting-civil-registration-professionals-south-asia-cr8.

Another form of marriage which is even rarer compared to polygyny is the practice of polyandry (where a woman can marry more than one husband). Anthropological literature has recorded this type of marriage in Tibet, Nepal and India. The most well documented form of polyandry is among the Toda people in Southern India. While there may be anthropological significance, only a few (less than 175) are left.[18] Among this community, fraternal polyandry (where a woman marries all the brothers in a family) is practiced.

4. Barriers to marriage and divorce registration

The barriers to marriage and divorce registration are varied. These include socio-cultural practices and expectations, the costs of marrying or divorcing and religious factors. These barriers and how they inhibit registration are described below.

Socio-cultural factors: The influence of socio-cultural factors on marriage and divorce registration cannot be overlooked. Just as marriage is an event that initiates linkages between lineages, divorce is a process that severs those linkages. One of the most important cultural expressions of marriage in South Asia is the payment of dowry, which is reported to be ubiquitous in the region.

In India, for example, dowry was only paid in about 40 percent of marriages prior to 1940. However, despite a rapid increase in laws prohibiting the practice of dowry, by 1975 over 90 percent of marriages still involved a dowry being paid.[19] Also, perhaps due to cultural and religious factors, women seem to have more difficult time than men in ending a marriage they are not happy with, a situation which puts them at a disadvantage.

Cost: Cost is an important factor in several ways. For example, accessing the office of the Registrar of Marriages or courts to file for divorce can add costs, especially if travel involves long distances. In some countries, e.g., Bhutan, individuals make payments to initiate the process of divorce, which may lead to delays (Marriage Act of Bhutan, 1980, kha5-1). In Pakistan, it is sufficient for the husband to utter the word "talaq" three times or to send a written notice of divorce to their wife and a representative of the local government (Muslim Family Laws Ordinance, 1961 Article 7). By contrast, a wife divorces through a court (khul'a divorce) under limited circumstances such as an abusive husband, desertion, husband suffering from leprosy or a virulent venereal disease (Article 2 of the 1939 Dissolution of Muslim Marriages Act). A wife is also required to repay part of her 'mehr'[20] (Family Courts Act, 1964, Article 9).

In Afghanistan, while a husband may divorce his wife by uttering the word "talaq" three times (Afghanistan Civil Law, 1977, Article 139), the wife obtains divorce through 'Khol'` (divorce in exchange for property in which the wife pays husband). Afghanistan Civil Law, 1977, Article 156).

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[18] Roy, S., et. al., (2015). *Tribes in Karnataka: Status of health research.* Available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4510769/.

[19] Chiplunkar, G. and Weaver, J. (2019). *Prevalence and evolution of dowry in India.* Available at https://www.ideasforindia.in/topics/social-identity/prevalence-and-evolution-of-dowry-in-india.html.

[20] A 'mehr' is a token installment and a commitment a groom gives to a bride at a marriage as an indication of his responsibility.

Religion: Religion also plays a role in moderating a couple's ability to divorce. In many religions the institution of marriage is seen as sacred, with divorce frowned upon and texts in religious books cited to stress the sacredness of the union. As a result, couples frequently remain together in order to protect the sanctity of marriage and retain their social status.

The religious dimensions of marriage and divorce vary in some respects between countries of the region. While it is possible for members of different religions to marry in Bhutan, for example, regulations can restrict the free practice of religion. Specifically, the Marriage Act of Bhutan, 1980, Kha 2-9 notes that "A non-Bhutanese married to a Bhutanese citizen if domiciled in the Kingdom of Bhutan shall, except for following the state religion of Bhutan, be strictly prohibited from propagating any other religion or introducing any new religion." In Afghanistan, on the other hand, the marriage of Muslim woman with a non-Muslim man is regarded as void but a man may marry a non-Muslim woman (Afghanistan Civil Law, 1977, Article 92). At a more general level, Islam, which allows a man to marry up to four women at any one time, has made provisions for divorce.

Legal requirements: The laws specify the age a person must attain in order to contract a legally recognized marriage. Nonetheless, the union must be within what is allowable by law. Generally, marriages between close relatives, e.g., between sister and brother, are considered void ab initio. Box 1 presents an example of the legal provisions in Nepal.

Depending on the country, the legal age of marriage varies from 16 years in Afghanistan and Bhutan to 21 years in Bangladesh and India (Table 1). Thus, underage marriages may

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Box 1: Provisions in the Civil Code of Nepal

72. Marriage to be void: (1) A marriage concluded on any of the following conditions shall, ipso facto, be void:

(a) A marriage concluded without consent of the man or the woman,

(b) A marriage concluded between the *relatives, punishable by law on incest.*

73. Voidable marriage: (1) If a marriage is concluded in any of the following circumstances and any person who concludes such a marriage does not accept it, the person may get such a marriage voided:

(a) If the marriageable age set forth in clause (d) of sub-section (1) of Section 70 [i.e. either party hasn't attained 20 years] has not been completed,

(b) If the marriage has been concluded, or caused to be concluded, by way of misrepresentation [e.g., if one partner is HIV+ or has Hepatitis B, or similar other incurable disease; one who has no sexual organ, is suffering from leprosy, a person of unsound mind, or one who is already married, etc.].

(2) a marriage shall be void only with the consent of the woman if she is pregnant or has delivered a baby as the consequence of the marriage.

Source: Civil Code of Nepal Act, 2017.

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be concealed from marriage registrars and from law enforcement agencies for fear of reprisals.

Lack of information: Lack of information regarding the process and benefits of registration may hinder couples from registering their marriage or in following the right channels leading to divorce.

Accessibility: Access to services offered by the Registrar of Marriages or courts is another

factor that may contribute to low registration of marriages and divorces. Lack of access impedes the registration of these two events in two ways. First, it directly increases costs; and second, it drives up the time individuals must allocate to access the service.

Lack of financial independence: Lack of financial independence keeps women in unions they otherwise would be willing to leave in at least two ways. First, the financial cost of seeking separation from a marriage can be prohibitive, especially when lawyers are involved. The cost of retaining legal counsel is beyond what most women can afford, particularly in rural areas.

Second, women are often not able to restart their own life after separation due to their limited financial base. In addition, the legal frameworks in different countries prescribe how divorce proceeds and who takes custody of the children, which can have financial implications. In Bhutan, for instance, children below nine years are left with the mother unless there are compelling reasons while older children are free to choose whom they want to stay with. In Maldives, the children are usually given to the mother, but the father of the children remains their Principal Judicial Guardian until they reach adulthood.

Avoiding stigma: Couples may also strive to make their marriages work in order to avoid the possibility of being stigmatized as failures or divorcees. As a result, couples may be reluctant to commence divorce proceedings for the sake of keeping their position in society. Furthermore, due to the normal pattern of arranged marriage in South Asia, a failed marriage may reflect negatively on the family. Consequently, couples will make every effort to avoid being stigmatized.

Lacking digitized records: Countries in the region, except for Bhutan and Maldives, have both marriage and divorce records in paper form. In some countries, such as India and Nepal, the digitization of records is still incomplete. Even in these cases, digitization between urban and rural areas is not the same. A lack of fully digitized records can make it difficult for authorities to check and retrieve information.

For example, if marriage records are not digitized, retrieving the original paper certificate and proving the marriage occurred requires additional (human) resource. As a result of the increased burden, delays may occur in processing and an individual filing for divorce may even be prevented from terminating the marriage at all.

Overcoming challenges

Various options exist to overcome the challenges summarized above.

1. Legal challenges can be overcome by demystifying the legal procedures through public education. Many people are intimidated by the legal processes and will often require prodding for them to get involved. Demystifying procedures will enable people to better understand and appreciate the laws protecting their rights.

2. In most countries of the region (except Bhutan and the Maldives), marriage and divorce records are kept in paper form or have only been partially digitized, making retrieval and analysis of records tedious. The records should be digitized for easy retrieval and analysis.

3. Governments should consider incentivizing marriage registration. For example, incentives could come in the form of tax breaks for those with marriage certificates.

Box 2: Birth registration and child marriage in Bangladesh

Rubi is a Bangladeshi girl whose marriage had been arranged by her parents when she was 15. As a volunteer involved in the 'Because I am a Girl' campaign raising awareness about the importance of birth registration, Rubi was aware of her rights and of the fact that the minimum age for marriage in Bangladesh was 18. She visited the Union Council Office together with a representative from Plan International where she explained her predicament and produced her birth certificate, obtained when she was six. Rubi was well aware of the value of a birth certificate as she was at first denied admission to primary school because she was unable to provide a birth certificate. When her parents were summoned, they first tried to change her age on the birth certificate, but the Chairman of the Union Council was able to explain Rubi's rights and the legal consequences of child marriage, so that the arranged marriage could be avoided.

Source: Girls Not Brides, How Birth Certificates Help Tackle Child Marriage, Blog post, 2014 (adapted from Hanmer and Elefante, 2016: 10).

5. CRVS in the context of marriage and divorce

Marriage and divorce indirectly affect birth rates and thus the population growth rate. Divorce can furthermore affect the well-being of the separated couple and of their children. The focus by states in the region on marriage and divorce is, however, less intense compared to the focus on births and deaths. Marriage and divorce registration is important for a number of reasons.

National planning: A functional civil registration system facilitates the delivery of services as it generates real-time data critical to inform decision-making. Insufficient or incomplete data frustrates countries' ability to plan based on accurate and up-to-date data. National planning in such cases often ends up using ad hoc data. While data on marriage and divorce can be extrapolated from agencies responsible for national statistics, the national census or surveys such as DHS and MICS, CRVS is the best source of continuous real-time data for national planning purposes.

Protection of individual rights: Reliable civil registration records, including those in marriage and divorce, provide a good basis for enforcing various individual rights. For example, they provide a basis for inclusion in social welfare programmes such as education, family allowances, tax benefits, as well as enforcement of property and inheritance rights.

A birth certificate provides proof of age and it can be used as proof of attainment of legal age for marriage, which in turn can help protect those who are underage from getting married (see Box 2).

A recent survey of 106 countries by ID4D[21] shows "a lower incidence of child marriage in countries where birth registration rates are high".[22] However, ID4D also warns that "birth registration and possession of a birth certificate alone do not prevent child marriage" as the practice of child marriage reflects social norms and cultural traditions which perpetuate the practice.[23]

In the case of marriage and divorce, the records provide documentation to facilitate the determination of an individual's civil status which, in turn, aids decisions regarding payment of alimony, access to tax benefits,

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[21] Identification for Development (ID4D) is a World Bank initiative promoting digital identification systems to improve development outcomes while maintaining trust and privacy.

[22] Hanmer, L. and Elefante, M. (2016). *The Role of Identification in Ending Child Marriage: Identification for Development (ID4D)*. Available at http://documents.worldbank.org/curated/en/130281472492551732/The-role-of-identification-in-ending-child-marriage-Identification-for-Development-ID4D.

[23] Ibid., p. 9.

allocation of housing and such other benefits that may be due a married couple. In the case of marriage between individuals of different nationalities, a marriage certificate issued by a competent authority is a critical document upon which a spouse or their offspring can gain the nationality of a partner (depending on national laws) or upon which a visa may be issued to allow one party to join a partner. In the case of bigamy, for example, a marriage certificate provides proof of the existence of a union and it can therefore be used to enforce the rights of the affected party.

Finally, a marriage certificate can facilitate birth registration in countries where a marriage certificate is required to register a child, such as in Maldives and Sri Lanka. A divorce certificate on the other hand establishes the right for one to remarry or to be released from any financial and other obligations that might be incurred by the other party. Thus, a marriage or divorce certificate establishes the legal status of a union. The certificates are used to both establish, protect or enforce the rights of the parties in the union and to define the relationship between parties.

Social Protection: Provision of services to vulnerable population groups depend on the production of legal documents establishing the status of the affected persons. In the case of those who are widowed, social protection agencies normally require a marriage certificate or death certificate as evidence. These two certificates together provide documentary evidence of widowhood and, as a consequence, enrolment into any social protection programmes.

Any benefits given to those who are widowed can be claimed upon production and verification of these documents. The production of a marriage certificate furthermore gives one the right to claim custody of children. A marriage certificate together with a birth certificate for the children are important legal documents to support claim for legal custody of children should the circumstances warrant such an action.

Health Monitoring: Following divorce, CRVS data can also be an important factor in ensuring effective and appropriate services are provided to affected parties, including children. Although accurate data on divorce is lacking in the region, evidence from other countries shows that divorce is associated with both positive and negative psychological well-being and physical health among adults and the children of dissolved marriages. The outcomes can vary with evidence showing that children in dissolved marriages suffer from poor emotional adjustment and have worse health outcomes.

However, there is also evidence relating to the negative effects of staying in an abusive marriage. Children living with and aware of violence in the home face challenges and risks that may last throughout their lives. First, there

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[24] See Amato, P. R. (2010). *Research on divorce: Continuing trends and new developments.* Available at https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1741-3737.2010.00723.x; and, Amato, P. R. (2004). *The consequences of divorce for adults and children.* Available at https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1741-3737.2000.01269.x.

[25] Kleinsorge, C. and Covitz, L. M. (2012). *Impact of divorce on children: Developmental considerations.* Available at https://www.ncbi.nlm.nih.gov/pubmed/22474111.

[26] Clark, S. and Hamplová, D. (2013). *Single Motherhood and Child Mortality in Sub-Saharan Africa: A Life Course Perspective.* Available at https://link.springer.com/article/10.1007%2Fs13524-013-0220-6.

[27] United Nations Children's Fund (2006). B*ehind Closed Doors: The Impact of Domestic Violence on Children.* Available at https://www.unicef.org/media/media_35151.html.

is increased risk that the children themselves become victims of violence and second, there is risk of ever-increasing harm to the child's physical, emotional and social development. Finally, there is a strong likelihood that their experiences become a continuing cycle of violence for the next generation.[27]

Therefore, CRVS data on divorce, from a planning perspective, is important within a country or region to identify where there are concentrations of divorce, separations and single parent families so that programmes can assess what skills are needed in the schools, or the type of benefits that may need to be accessed, to provide adequate and focused support.

Box 3: Integration of Marriage and divorce records using Maldives E-court Management System (MEMS)

In the Maldives, a software package to link marriage and divorce records was introduced in 2011. Since then, many amendments have been made to fit the requirements of different courts. However, lack of budget and other network issues slowed the implementation process.

In 2016, Network enhancement was carried out leading to connection of all 187 magistrate courts to the system. The special module for marriage and divorce and records of maintenance is in use and is undergoing further development and testing. By the end of 2019, only the Family Court located in Male' City and Fuvahmulaku Magistrate Court maintained records using the Maldives E-court Management System (MEMS).

Source: Adam, Faisal (2019). *Marriage and Divorce: Procedures and Challenges*. Presentation to the Civil Registration Professionals of South Asia meeting, Maldives, November 2019. Available at: https://getinthepicture.org/resource/second-meeting-civil-registration-professionals-south-asia-cr8.

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6. Bottlenecks to marriage and divorce registration

Legal frameworks exist to regulate marriage and divorce in South Asia. These however do not emphasize the need for accurate data capture in order to inform the CRVS system and align with the internationally recognized standards of continuous, permanent, compulsory, and universal recording. As a result, data is often insufficiently captured to inform decision, making **data weakness** a major bottleneck.

Systemic factors such as distance to registration centers may also present obstacles to the registration of marriages and divorce. Often these factors mean significant opportunity costs as individuals must leave their activities to pursue marriage or divorce registration. One way of addressing factors such as these is to harness opportunities provided by various government systems. For example, services such as birth registration, court processes and issuance of national identification and travel documents could be linked or integrated as a point of entry for registering marriage and divorce events.[28]

Legal factors provide another source of obstacles to marriage and divorce registration. While legislation is meant to provide a protective cover to those in marriage, as well as those who are divorced, at issue is whether it has played the role expected in South Asia. It is generally agreed that marriage and divorce registration have an important protective function in ensuring that matrimonial property and individual rights are both protected. The legal frameworks, however, can be complicated processes for most people to engage with, especially for those with a low level of education.

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[28] Faisal, Adam. (2019). *Marriage and Divorce: Procedures and Challenges*. Presentation to the Civil Registration Professionals of South Asia meeting, Maldives, November 2019. Available at https://www.getinthepicture.org/resource/second-meeting-civil-registration-professionals-south-asia-cr8.

Conclusion

Countries in South Asia are moving in the right direction by prioritizing marriage and divorce registration. Data reviewed in this paper, however, show that there is still significant work needed to improve registration of these two key life events. Although there are laws to protect girls and boys, 30 percent of girls and 4 percent of boys still get married below the age of 18 years.

The value placed on marriage and divorce registration is a product of our cultural and social practices. These are moderated by the legal structures in place. Although legislation can bring about significant changes in the registration of these two vital events, legislation alone cannot cause the desired change. There are bottlenecks to marriage and divorce registration that include weak/inadequate legal frameworks regulating marriage and divorce.

Furthermore, as shown, there are numerous laws in different countries governing marriage and divorce. It would make sense to simplify the various laws into one consolidated legal framework. Similarly, the role of socio-cultural systems should be clearly understood and considered, as these can act as both facilitators and inhibitors of marriage and divorce registration.

Finally, systemic factors such as distance to registration centers can present access-related obstacles. Countries in South Asia require appropriate enabling environments to reach the desired goal of continuous, permanent, compulsory and universal recording of these vital events.

THE ROLE OF ICT IN STRENGTHENING CIVIL REGISTRATION [1]

Abstract

Information and communication technologies (ICT) are playing an increasingly significant part in civil registration (CR) all over the world. In South Asia, ICT has the potential to improve civil registration processes and outcomes. However, for varied and complex reasons, initiatives often fail to match expectations. Among them is the ongoing need to build capacity and strengthen institutions to effectively operationalize ICT tools, ensure better coordination among actors involved in the registration process, and maintain integrated and interoperable systems capable of handling the intense pressure of overcrowded urban areas, as well as isolated and remote rural locations.

CR systems also need to work within the larger identity (ID) ecosystem comprising civil identification (CI) and other functional registers. Yet there are challenges here as well. These include ensuring privacy and confidentiality, as well as making decisions on different strategies to link across the ID ecosystem in areas including unique identification numbers (UIN) and methods for verifying data and combating fraud. The way forward is to prioritize beneficiaries of the registration systems while making the technology work in unison with the legal and administrative frameworks.

1. Introduction

Today, almost every country in the world provides for birth registration [2] as part of its overall CR system. The advent of the

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[2] See World Bank Group Data Catalog (2018). *Identification for Development (ID4D) Global Data Set.* Available at https://datacatalog.worldbank.org/dataset/identification-development-global-dataset.

modern computer is closely linked with the counting of people. One significant milestone, though not the earliest, was the US census of 1890, when authorities first deployed electro-mechanical tabulating systems. The modern-day birth certificate[3] also first appeared in the early twentieth century, and widespread use of computers for national birth and death records followed a few decades later.[4]

By the end of the twentieth century, some countries provided fully computerized civil registration systems (births, deaths, marriages, divorces, etc.) for keeping records, issuing certificates, and data storage and retrieval. Some countries also computerized historical records from at least the beginning of the twentieth century. For example, Sweden began providing a single source of information for the country's entire living population.

However, other countries are still trying to achieve universal civil registration coverage and completeness, as well as full ICT deployment. Due to capacity constraints though, the roadmaps for achieving full deployment need careful planning and support.

2. Current status of ICT for civil registration in South Asia

Consequently, this paper provides an overview of how ICT enables and strengthens civil registration in South Asia by covering the following areas:

- The current status of deployment of ICT for civil registration in South Asian countries;
- The institutional and administrative aspects to be considered in the introduction of ICT for civil registration;
- The tools, devices and approaches for ICT deployment;
- The issues related to procurement, open standards and the use of open source approaches; and,
- Using CR data for verification to address fraud and other special purposes.

Currently, the South Asian countries are at different stages in the deployment and use of ICT for CR. Each country is implementing and using national identification systems in a variety of ways, with countries exploring situation-specific trajectories to bring national systems together to support the increasing needs for individuals to be able to prove their legal identity.

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[3] The Modern-day birth certificate includes the practice of having a long-lasting standard format with a focus on correctness and completeness backed by law. See Brumberg, H.L., et. al., *History of the birth certificate: from inception to the future of electronic data.* Available at https://www.nature.com/articles/jp20123.

[4] IBM History (n.d.), *Hollerith Tabulating Machine, 1890.* Available at https://www.ibm.com/ibm/history/history/year_1890.html.

Table 1: Status of ICT in Civil Registration – CR8 Countries

			AFGHANISTAN	BANGLADESH	BHUTAN	INDIA	NEPAL	MALDIVES	PAKISTAN	SRILANKA
Civil Registration(CR)	**Births & Deaths**	AGENCY RESPONSIBLE	General Directorate for Civil Registration	Office of the Registrar General for Birth & Death Registration	Ministry of Home & Cultural Affairs	State Governments instructed by the Ministry of Home Affairs, RGI	Ministry of Fedreal Affairs & General Administration. Dept. of Civil Registration	Dept. of National Registration. City Councils (Island & Atoll)	Union Councils under Provincial Local Government departments	Ministry of Home Affairs. Department of Registrar General
		ICT USE STATUS	Partial	Substantial	Substantial	Partial	Partial	Partial	Partial	Substantial
	Marriage & Divorce	AGENCY RESPONSIBLE	Ministry of Justice	Ministry of Law, Justice, Legislative & Parl. Affairs. Also Muslim Marriage Registrar	Courts	District Magistrate	Ministry of Fedreal Affairs & General Administration. Dept. of Civil Registration	Family courts, also responsible for adoptions.	Union Councils under Provincial Local Government departments	Ministry of Home Affairs. Department of Registrar General
		ICT USE STATUS	No	No	Substantial	Partial	Partial	Starting end 2019	Partial	No
Civil Identification (CI)	**ID Program**	AGENCY RESPONSIBLE	National Statistics Information Authority (NSIA)	Bangladesh Election Commission	Ministry of Home & Cultural Affairs	UIDAI	Ministry of Home Affairs	Department of National Registration	NADRA	Ministry of Home Affairs. Department of Registrar General
		PROGRAM NAME	e-tezkera	NID	CID	Aadhaar	NIDMC	NID	CNIC	NID
		AGE OF ISSUE	At birth	18	15	-	16	At birth	18	16
		ICT USE STATUS	Substantial	Substantial	Substantial	Substantial	Substantial	Substantial	Substantial	-
Linkage	**UIN Generation**		at National ID enrolment	at Birth registration	at National ID enrolment	at Aadhaar enrolment	at National ID enrolment	at National ID enrolment	at National ID enrolment	at birth since 2019
	CR & CI Linkage		In progress	MoU signed	In progress	Via Aadhaar enrolment at birth	Initiated	Not in real-time	In progress	-
	Health System & CR Linkage		Yes	Yes	Yes	Yes	Yes	Not in real-time	Yes	Yes
	National Population Register (NPR)		Part of ID system	In process	To be taken up	Definition stage	Initiated	To be taken up	Part of ID system	Initiated
CR System characteristics	**Use of mobile devices in the field**		No	OpenCRVS pilot	No	Yes	Yes	No	Yes	No
	Use of internet & GSM network		Tested	Tested	Tested	Tested	Tested	Tested	Tested	Tested
	Software	SOURCE	outsourced	BRIS in-house	AIT Bangkok	In-house	in-house	in-house	in-house	outsourced
		PRODUCT		OpenCRVS pilot						-
	Back data archive		Digitized	Partial	Partial	Partial	Partial	Partial	Partial	Partial
Data	**Population (million)**		34.66	162.95	.80	1,324.17	.43	28.98	207.77	21.20
	Birth Registration (under 5)		42%	20%	98%	72%	93%	54%	34%	97%

Source: Author's compilation from UNICEF (2018), *Status of Civil Registration and Vital Statistics in South Asian Countries 2018*; Harbitz, Mia (2018), *Relationship between Civil Registration and Civil identification;* and direct discussions with civil registration professionals in each country during the 2019 Meeting of Civil Registration Professionals.

3. Institutional arrangements matter

The location of CR and CI in the government varies from country to country, depending on the government structure and the laws governing the processes. Data about the institutional models for CR and CI worldwide are available in various publications.[5] The participants during the 2018 meeting of the Civil Registration Professionals of South Asia (CR8) recognized that greater coherence and interoperability between the CR and CI systems is more likely if the dual systems are managed by the same ministry or department. Presently, five of the eight CR8 countries manage both systems this way (Afghanistan, Bhutan, Maldives, Pakistan and Sri Lanka).[6] However, when the two systems are managed separately, they should still provide independent checks and balances on one another.[7]

Additionally, marriages and divorces are not managed directly by either CR or CI in South Asia. Rather, marriages are conducted and recorded by religious official or civil/judiciary officials, and then registered by government marriage registries.[8] Consequently, the arrangements as to which stakeholder is responsible for what part of the civil registration process must be understood clearly before applying ICT to improve the process.

Civil registration processes are being strengthened through expanding ICT use, not only within the registration authorities, but also in the health sector. Key information about vital events that may originate from within health systems can be easily used for the automatic notification for birth registration. For example, hospitals in Afghanistan and health clinics in Dhaka, Bangladesh, are engaged in the notification of births to the registrar general. Every country in South Asia has already set out to achieve this in the long run.

Ultimately, the institutional arrangements for civil registration and the responsibilities of different organizations need to be clearly articulated because this directly determines the type of administrative processes needed to have an effective CR system. Country-specific experiences are of interest to understanding the relative strengths and weaknesses of the various models.

3.1 Institutional capacities need to be part of ICT decision-making

Institutional capacity contributes significantly to improvements in CR performance. This requires consideration of how the introduction and management of ICT in civil registration is best managed. In Afghanistan, it is the ICT section within the National Statistics and Information Authority, which is also responsible for civil registration, leading the introduction of technology into civil registration. In Namibia, for example, this is led by the civil registrar's office. Whatever approach is taken, it is imperative that the decisions and directions are based on knowing the policies, objectives and actual users of the civil registration system.

CR and CI are related in a complex manner and may be managed by the same or different organizations within the government. CR has

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5   United Nations Children's Fund and United Nations Economic and Social Commission for Asia and the Pacific (2019), *Civil Registration in South Asia: Coordination,* Connections and Collaboration, Available at https://www.getinthepicture.org/resource/civil-registration-sout-asia-coordination-connections-and-collaboration.

6   Harbitz, Mia (2019), *Relationship Between Civil Registration and Civil Identification.* Published in *Civil Registration in South Asia: Coordination*, Connections and Collaboration. Available at http://getinthepicture.org/resource/civil-registration-south-asia-coordination-connections-and-collaboration.

7   Ibid.

8   For more information see the second paper in this publication: Nyamongo, I. (2020), T*he Status of Marriage and Divorce Registration in South Asia.*

a strong human-rights focus and facilitates access to rights, while CI has a connection to citizen responsibilities and entitlements, such as taxation, as well as links with service delivery.

In South Asia only two countries, Bhutan and Sri Lanka, administratively locate both CR and CI under the same department within their respective ministries. Besides achieving economies of scale and greater consistency between the systems, both countries also report high levels of birth registration; 98 and 97 percent, respectively.

However, even while the dual systems may be located under the same departments, the other CR8 countries still manage both systems under separate departments and separate ministries. As such, the relationship between CR and CI often comes up for scrutiny. In India, the Cabinet Committee on Unique Identity Authority of India (UIDAI) decided that both Aadhaar enrolment (part of CI) and birth registration (part of CR) would be done in parallel "with provisions to eliminate information overlap".[9]

In most CR systems there is a strong local-level process responding to the immediacy needed for registration. This registration may link to a national civil registration system or be at a sub-national level. CI, however, predominantly takes a more centralized approach. India is an example of a CR that is decentralized to the State level while having a centralized CI system (Aadhaar). To obtain an Aadhaar, a birth certificate is one of the potential identification documents.

The role of health facilities and their organizational structure also has a bearing on CR and the placement of ICT support. Births often take place at health facilities and it is useful to have both health management and CR data emerging out of a common approach. However, this then excludes an equally sustainable organizational approach to home births, an area in which there appears to be a significant proportion of unrecorded births. To mitigate this in Pakistan, local marriage registrars support the notification of births in homes using a mobile application. Similar issues also occur in cases of death registration.

Adding civil registration responsibilities to the health sector therefore needs safeguard against any detraction from its primary purpose of providing health care. This is particularly necessary in urban areas where hospitals are under strain because of expanding populations in the cities, as compared to rural areas. It is also important to recognize that urban hospitals may often attract people from rural areas seeking medical care and the rate of hospitalization is double that of rural areas.[10]

3.2 Administrative processes are a critical element in planning ICT introduction

Authorities also need to consider administrative processes when looking at the introduction of ICT. Such processes in the CR area record several vital events; namely, birth, death, fetal death, marriage, divorce, annulment, judicial separation, adoption, legitimation and recognition. Each registration also has several steps leading to the completion of the recording and certification of the vital event. Birth, for example, consists of notification, registration and certification. Each of these steps will have a set of entities associated. For example, notification can be done by a mid-wife, health worker or doctor, while registration is done by a registrar having authority over the area.

[9] Down to Earth (2015), *Battle between UIDAI and home ministry ends.* Available at https://www.downtoearth.org.in/news/battle-between-uidai-and-home-ministry-ends-35849.

[10] Mullen, Patrick M., et. al. (2016), *Urban health advantages and penalties in India: Overview and case studies, discussion paper.* Available at http://documents.worldbank.org/curated/pt/87841456498771492/Urban-health-advantages-and-penalties-in-India-overview-and-case-studies-discussion-paper. Also see Organisation for Economic Co-operation and Development (2018), *Health at a Glance: Asia/Pacific 2018.* Available at http://www.oecd.org/health/health-at-a-glance-asia-pacific-23054964.htm.

Box 1: Namibia case study

The Namibia experience is relevant to South Asia because it illustrates the usefulness of applying a step by step approach to the implementation of ICT in the civil registration system.

Once a vital event is recognized in Namibia, it can be legally recorded in the CR system. This fundamental information can then be used for the issuance of identity credentials (ID) and aggregated for vital statistics (VS) as well. The Namibian CR system provides a case study of how such characteristics can be created using a step-by-step approach. A National Population Register (NPR) was also established in Namibia in 1996. It was originally based on an older ID system.

Each entry in the Namibian NPR is made at birth. The NPR is a central register in which each child's records are linked uniquely to that of the parents. For this, large parts of the old data had to be laboriously updated in order to eliminate cases of multiple birth certificates as well as link marriages and partnerships.

In order to overcome the limitation of the system being passive, an e-birth notification system was introduced. This was followed by an e-death notification system. In both cases, the information was "pushed" to the CR system and reported to the beneficiary, instead of waiting to be informed. This made it extremely convenient for the population, who could then turn up at the correct location and obtain the required certificate.

Source: Forsingdal, A. B. (2019), *Taking a Holistic Approach to Digitalization of Civil Registration and Vital Statistics and Identity Systems*. Presentation to the Civil Registration Professionals of South Asia meeting, Maldives, November 2019. Available at https://www.getinthepicture.org/resource/second-meeting-civil-registration-professionals-south-asia-cr8.

The same vital event might also need to be treated differently in various circumstances. For example, hospital births in urban areas and unattended home births in remote rural locations might require a different set of steps to complete the registration. At a hospital a doctor might always be on hand to provide the notification. However, in a remote area, a village functionary might need to play such a role and in some cases a registrar might need to deploy an additional process of verification. How many births and deaths are dealt with in each office is also considered when defining which processes should be supported by ICT.

Using ICT will also require strong coordination among administrative structures. For instance, some aspects of the civil registration processes (birth notification) are often carried out at a community level (community health centre), while issuing birth certificates may be done at another location (sub-district headquarter). It also requires parents to travel from one location to another. ICT tools can offer convenience by providing birth certificates over the internet and allowing for secure printing at the community level, but only if properly coordinated.

Another important point is that authorities need to ensure people trust the ICT-based procedures being used for CR processes. While ICT enables tasks to be completed more efficiently, in practice, ICT tools are typically introduced with the administration of the CR system in mind, which does not necessarily prioritize the person/client registering an event.

In addition to CR records, countries may establish a population register which means the design of the administrative processes need to consider linkages using ICT tools. A population register should be continuously updated with civil registration records. This allows for the ongoing maintenance of the population register and can support using the population register as the backbone for other registers such as personal identification registers, electoral rolls, pension funds registers, etc.[11]

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[11] United Nations Department of Economic and Social Affairs, Statistics Division (2014). *Principles and Recommendations for a Vital Statistics System, revision 3*. Available at https://www.un.org/development/desa/capacity-development/tools/tool/principles-and-recommendations-for-a-vital-statistics-system-revision-3/.

Additional functional registries are also linked to CR and CI. An electoral roll or a tax-payers database are examples which might refer to CR to determine eligibility and then CI for authentication and verification. Having biometrics in CI may provide the capability to "de-duplicate" records, i.e., prevent individuals from enrolling more than once, although biometrics is not the only way of doing this and does not exclude fraud altogether.

Biometrics are usually captured at the time of enrolment in civil identification systems at the age of 15 to 18. This is the current practice in six of the eight CR8 countries[12] (Afghanistan, Bangladesh, Bhutan, Nepal, Pakistan and Sri Lanka). This is also the age at which enrolment and issuance of CI takes place. In India, Aadhaar enrolment can take place at birth,

3.3 The use of unique identification numbers (UIN) and ICT considerations

A UIN can play a critical role as it can be used to easily link between records pertaining to the same individual in various systems such as CR and CI and functional registries. However, this also poses individual privacy and data security risks.

Some countries issue UINs at birth (as part of the registration process), while others issue them at the time of CI enrolment. UINs can be either structured or random and both practices are common across the world. A random number provides greater privacy for the individual, since a structured number might disclose, the age, ethnicity, sex, a geographical identifier, citizenship status and other characteristics.

Table 2: UIN practices for the CR8 countries

Country	Unique ID Number practice
Afghanistan	Year & Month of birth + unique serial + sex
Bangladesh	Random + check digit[13]
Bhutan	Area Code (District + sub-district) + random
India	Random + check digit
Nepal	Random + check digit
Maldives	Random + check digit
Pakistan	Area Code + unique serial
Sri Lanka	Year of birth + unique serial

Source: Author's compilation from interviews with the civil registration representatives present at the 2019 CR8 meeting or by personal communication.

however, biometrics (iris, fingerprints and facial photograph) are collected at the age of 5 and updated at 15, respectively. Similarly, in Maldives, while the national ID can be issued at birth, biometrics (fingerprints) are only collected at the age of 18.

Whether the UIN should be meaningful or random has been actively debated in recent years. Meaningful (or structured) UINs pose several practical problems. In case of delayed registration, where dates of birth (DOB) may not be reliably recalled, there can be difficulties in the

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[12] See Table 1: Status of ICT in Civil Registration – CR8 Countries.

[13] A check digit is a digit added to a string of numbers for error detection purposes. Normally, the check digit is computed from the other digits in the string. A check digit helps digital systems detect changes when data is transferred from transmitter to receiver. The check digit is an important element of a UIN, whether it is structured (intelligent) or random. When a UIN is typed, there are many chances for errors (e.g., juxtaposition, misreading, typing errors). Check digits apply a mathematical calculation to the digits and arrive at a single digit that would have changed if such an error was made. Thus, the error will become apparent when the check digit is typed.

creation of a meaningful UIN, for example. Even more concerning is the fact that such a UIN can reveal personal information to people who do not need to know and may use it detrimentally.[14]

On the other hand, a random UIN is often thought to require a central online connection and will be more difficult for the individual to remember. However, this can be overcome by pre-generating random UINs. Additionally, having the same number on the CR records, in the CI system and functional registers is useful, particularly for system maintenance purposes, monitoring and evaluation and for generating statistics. In the final analysis, due to the inherent superiority in maintaining individual privacy, a random UIN is considered more appropriate.[15] Finally, for CR, recognizing family connections is also important. Therefore, data structures are required to link individual records belonging to a family, which can be accomplished in several ways.[16]

4. Deploying technology

Today, ICT for civil registration often includes the deployment of mobile devices, tablets and laptops as well as large-scale servers, switches, routers and related equipment. All of these can be connected over the internet, Global System for Mobile Communications (GSM) networks, Wi-Fi and situation-specific solutions that might be based on satellite communication (VSAT) or terrestrial cables. While government systems are generally hosted in-house, hosting CRVS systems in the cloud is also feasible.[17]

Such devices and means of connectivity enable the system to be accessible for local communities. For example, a health worker can now send a notification from the field instead of filling a register or traveling great distances to report the same. While such capabilities have now been available for some time, their precise impact on improving birth registration levels is yet to be comprehensively assessed. As a result, systems often continue to be a mix of paper-based and IT-based processes.

Decisions on the use of ICT also depend on the context. In the Maldives for example, most births and deaths occur in the capital Male rather than in the smaller islands. In smaller communities, the paper-based systems may continue to be more viable and appropriate when balancing the infrastructure investment and human capacity needed to manage the system, versus the extent to which such a system would be utilized.[18]

Alternatives for software architecture have also diversified over time. However, it is important to have both online and offline versions deployable due to field requirements that continue to exist, especially in remote areas lacking both electrical power and data connectivity.

Current practices also need to be continuously documented and shared. This includes notification, registration, certification (in print or electronic), data back-up and maintenance from the systems point of view. For example, ensuring records are permanent, both on paper and in

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[14] In South Korea where the UIN is meaningful, for example, the law has been amended so that a person who suffers or is likely to suffer any danger or injury to safety, health or property due to divulging of UIN can have the number changed (IDRC upcoming paper on CRVS and Social Protection).

[15] For more information on integrated UINs see World Bank (2018), *Integrating Unique ID Numbers in Civil Registration.* Available at http://documents.worldbank.org/curated/en/.

[16] Pence, R.A. (1996), *Numbering Systems in Genealogy.* Available at http://www.saintclair.org/numbers/. National Genealogical Society's Computer Interest Group, July 1986 & updated November 1993. It describes the principal systems worldwide like Registration System (UK), NGSQ & Henry (USA), d'Aboville (France), etc.

[17] World Bank (2019), *CRVS systems in low- and middle-income countries; research.* Available at http://www.getinthepicture.org/resource/crvs-systems-low-and-middle-income-countries-research.

[18] This was discussed by participants during the site visits to registration facilities in the Maldives.

digital form, is a challenge. Digital preservation is therefore a subject of concern for all.[19]

It is equally important to continuously focus on operator and system training and knowledge sharing. Maintaining an efficient ICT system requires regular training of its operators, the timing of which is currently estimated to be around 50-60 hours per year, per employee.[20] Developing a strategic approach to the introduction of new and relevant technologies is also critical. In Namibia, during its introduction of ICT into the CR system, it was necessary to consider the capacity of the staff. As shown, Namibia successfully introduced ICT through a deliberate, step-by-step process.[21]

National stakeholders also need to address several questions when considering ICT for CR. For example, are countries using mobile devices in the field? This is relevant because it has the potential to bring birth notification closer to place of birth in case of home deliveries. It could also reduce the number of trips to registration centers.

Moreover, are systems deployed online or offline? This question is especially critical for locations where internet or telecom networks do not reach, or where smart phones are not available. Such factors require the field applications to have offline features, or at least back-up procedures.

In Pakistan, the ongoing reform of civil registration introduced mobile devices to facilitate the notification of births. The village facilitator can complete the notification/registration form and capture images of documents to then send to Union Council to review for further registration and certification of the birth.[22]

Box 2: Pakistan case study

Approximately 5 million children are born every year in Pakistan and an estimated 60 million are unregistered. If this situation remains unchanged, by 2025 this number will increase to over 100 million.

Current system improvements underway include the use of mobile-phones as well as improvement of health awareness through uptake of m-health services (mobile-phone based applications) and the mandated role of the local health department.

The digitalization of the birth registration process is being actively strengthened. It is planned that every field agent will have a "mobile app" to notify births, who can then forward the notification to the registrar.

By 2022, it is expected that birth registration will significantly improve in at least two provinces.

Source: Afridi, M.I. (2019), *The Introduction of Technology in Civil Registration Process in Pakistan.* Presentation to the Civil Registration Professionals of South Asia meeting, Maldives, November 2019. Available at https://www.getinthepicture.org/resource/second-meeting-civil-registration-professionals-south-asia-cr8.

[19] Center for Development of Advanced Computing (n.d.), *National Study Report on Digital Preservation Requirements of India.* Available at https://www.cdac.in/index.aspx?id=mc_hc_national_study_rep.

[20] Harbitz, Mia and Gregson, Kendra (2015), *Toward Universal Birth Registration: A Systemic Approach to the Application of ICT.* Available at https://publications.iadb.org/en/toward-universal-birth-registration-systemic-approach-application-ict.

[21] Forsingdal, A.B. (2019), *Taking a Holistic Approach to Digitalization of Civil Registration and Vital Statistics and Identity Systems.* Presentation to the Civil Registration Professionals of South Asia meeting, Maldives, November 2019. Available at https://www.getinthepicture.org/resource/second-meeting-civil-registration-professionals-south-asia-cr8.

[22] Afridi, M.I. (2019), *The Introduction of Technology in Civil Registration Process in Pakistan.* Presentation to the Civil Registration Professionals of South Asia meeting, Maldives, November 2019. Available at https://www.getinthepicture.org/resource/second-meeting-civil-registration-professionals-south-asia-cr8.

In Bangladesh, the current birth registration system is only functional when online. As the connectivity is not always present, the system is being revamped so registrations can be entered when the system is offline, with the information being sent later to the central level when connectivity returns.[23]

In developing the technology, consideration also needs to be given to using the cloud for data storage. While this tool may alleviate some concerns about data storage risks due to environmental disasters and impacts, there are other cyber security risks that may appear, requiring preventative structures to be in place.

In South Asia, while cloud availability has been established, its use in the public sector is yet to become mainstream. In Bangladesh for example, banks and some retail establishments have only started using cloud technology on a small scale.[24] India is the only country reporting significant cloud usage, with the government accounting for about 13 percent of total usage.[25] Using the cloud for storage may pose legal framework challenges as there may be geographical restrictions on data storage and archiving, as well as some concerns about data protection and ownership depending on the solution used.

The use of ICT in civil registration can also go beyond registration itself and can facilitate ongoing monitoring of the system, registration rates and the timeliness of registrations. In Pakistan, a monitoring system is included in the new registration system. This makes a dashboard available at the registrar's office to provide an overview of progress on birth registration in the province, which can be used to identify issues such as areas with low registration rates. It also provides details on the success of notifications provided by the appointed notifiers in the community.[26]

The cost of implementation of ICT is a major obstacle for many countries, but there is still a gap in research specific to South Asia on the costs and benefits of using ICT for civil registration.[27] Typically, the cost includes the number of offices, personnel involved, the number of births and deaths to be registered, among others. A study of cost of identity management systems was undertaken in 2018[28] and there is global work on costing and financing civil registration improvements underway.

5. Procurement, open standards and open source

In South Asia, countries have elected to develop their own unique civil registration software. The software has been custom-built, either in-house or by contracting consultants (see Table 1). Such systems are developed in the country, based on legal, administrative and institutional considerations which are specific to the national context.

Ready-made, off-the-shelf CR software products have also recently become available and can be

[23] Banik, M.L. (2019), *Bangladesh's experiences with filling in the midterm questionnaire.* Presentation to the Civil Registration Professionals of South Asia meeting, Maldives, November 2019. Available at https://www.getinthepicture.org/resource/second-meeting-civil-registration-professionals-south-asia-cr8.

[24] Ibid.

[25] Analytics India Mag (n.d.), *India's move to Adopting Cloud Services in the Public Sector is a Game Changer.* Available at https://analyticsindiamag.com/indias-move-to-adopting-cloud-services-in-the-public-sector-is-a-game-changer/.

[26] Afridi, M.I. (2019), *The Introduction of Technology in Civil Registration Process in Pakistan.* Presentation to the Civil Registration Professionals of South Asia meeting, Maldives, November 2019. Available at https://www.getinthepicture. org/resource/second-meeting-civil-registration-professionals-south-asia-cr8.

[27] This information was confirmed by the author through discussions with meeting participants during the 2019 Meeting of Civil Registration Professionals of South Asia, Maldives.

[28] See World Bank (2018), *Understanding Cost Drivers of Identification Systems.* Available at http://documents.world-bank.org/curated/en/702641544730830097/Understanding-Cost-Drivers-of-Identification-Systems.

put together in a modular fashion as per country requirements.[29] No analysis is yet available on feature availability, life-cycle cost-benefit, or the ease of deployment and maintenance of such products. Literature is available, however, which compares custom-built software with off-the-shelf software products and provides the contexts within which either approach can be more appropriate.[30]

Regardless of the modality of development, the system needs to be adapted to the country context and the civil registry needs to have the source code in order to reform the system as needed, independent of the vendor. Consideration of the country context should reflect the extent and accessibility of the internet and GSM to determine if these are tools that the CR technology should build upon. A key requirement should also be the ability to get data out of the system to be used for producing vital statistics and public administration in general.

Open standards ensure technologies being deployed which are neither patented nor proprietary and are available from more than one source. Several open standards[31] provide reliable guidelines and frameworks for data privacy, cyber-security, identity credentials and breeder documents. Relevant standards, such as ISO 27000, are a good example and pertain to information security management systems. Some other examples are ISO 29100 for

privacy, 29003 for ID proofing, and ISO 24760 for identity management.

Another benefit of open standards is sharing of good practices among various stakeholders. A typical example is the European Committee for Standardization's CEN/TC 224 WG-19 on breeder Documents[32] (currently applicable for EU countries and is work in progress) but which could become an example for CR8 countries. Birth certificate formats and content vary widely, sometimes from one municipality to another. However, this standard seeks an agreed format and content across all the European Union countries, thus making it more recognizable and trusted across governments. This is the first known standard for birth certificates. It includes, for example, standardization of the fields of information that the birth certificate shall include.

Another important approach is to deploy open source software (OSS). This will enable the use of free or low-cost software resources for CR without vendor lock-in. Open source software is software in which source code is released under a licence, and in which the copyright holder grants users the rights to study, change, and distribute the software to anyone and for any purpose.

The Open Source Initiative (OSI) for example, provides a list of criteria to determine if a software is open source[33] that is recognized

29 Examples include: WCC (HERA), Canadian Bank Note (National Identification & Registry), DelaRue (DLR Identify™ for CRVS), Digitech (Civil Status solution), KP VTI (Civil Registry Systems), Axiell Group (VITAL RECORDS AND STATISTICS SOFTWARE), Genesis (WebLE), Promadis (Births, Deaths and Marriages Registry), and Object Consulting (CRVSNOW). Plan International and Jembi are also developing a software system (OPENCRVS).

30 Agrawal, V.K, et. al. (2016), *Trends in Commercial-Off-The-Shelf vs. Proprietary Applications.* Available at http://scholarworks.lib.csusb.edu/cgi/viewcontent.cgi?article=1292&context=jitim.

31 International Organization for Standardization (n.d.), *ISO/IEC JTC 1/SC 27, Information security, cybersecurity and privacy protection.* Available at https://www.iso.org/committee/45306.html.

32 Deutsches Institut fur Normung (n.d.), *CEN/TC 224/WG 19, Breeder Documents.* Available at https://www.din.de/en/getting-involved/standards-committees/nia/european-committees/wdc-grem:din21:270118374.

33 OSI suggests that something is open source if the following applies: There is free redistribution, the programme includes the source code, the licence allows modifications, there may remain integrity of the author's source code, the licence does not discriminate against any person or group or fields of endeavour, the rights attached to the programme apply to all to whom the programme is redistributed, the licence is not specific to a product, the licence does not restrict other software and the licence is technology neutral. See https://opensource.org/osd.

by several governments as the standard or de facto definition of OSS. In addition, many of the world's largest OSS projects and contributors[34] have committed to upholding the OSI's mission and open source definition through the OSI Affiliate Agreement.

On the deployment of ICT for CR, the corresponding legal framework must also refer to the legal validity of electronic transactions. In commercial transactions, for example, it will be necessary to establish the authenticity of the electronic transactions in the case of disputes. This type of recognition, available in commercial transactions may also be relevant to vital events as recorded in a CR system.

Many countries today have relevant laws in place which are based on the UN Commission on International Trade Law's, model law on e-commerce of 1996.[35] Such laws envisage the recognition of electronic documents, transactions and signatures, as well as the use of a public key infrastructure (PKI). In case such a law is not in place, it is still possible to have recognition of electronic transactions, but it must occur via a specific contract. If countries already have an electronic transaction law in place for commerce, it should be possible to extend the same to digital birth records or certificates, which could then be legal without a corresponding paper copy, for example. However, this would need to be verified within the context of each country's legal framework.

Among the CR8 countries, six already have such a law in place[36] and electronic transactions are also possible in the other two, albeit in a limited manner. The EU's eIDAS[37] regulatory framework, as implemented across the EU countries, is a good example of the recognition of electronic transactions across numerous countries.

Moreover, considering the likelihood civil registration records may need to be referenced across borders, it is also important for countries to become signatory to the 'Apostille Convention' under The Hague Convention of Private International Law (HCCH).[38]

The Apostille Convention facilitates the recognition of public documents executed by one Contracting Party to the Convention by another Party. It replaces the cumbersome and often costly formalities of a full legalization process (chain certification) with the mere issuance of an Apostille. However as of now, only India recognizes the Apostille Convention, while the other CR8 countries are not yet signatories.

6. Using CR data for verification

While CR data is private and confidential, it may still be considered for use digitally when, for example, verification is necessary, as is the case of issuing passports. Currently, when a state passport agency needs to examine the birth certificate of an applicant, it requires the applicant to present validated information. This may require visits to government offices at multiple locations. However, such extra effort can be effectively eliminated if the passport agency can digitally verify the birth certificate information.

Such a system could be more reliable and trusted, besides being quicker and more

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[34] For more information see Open Source Initiative. Available at https://opensource.org/.
[35] Trade Facilitation Implementation Guide (1996), UNCITRAL Model Law on Electronic Commerce.
Available at http://tfig.unece.org/contents/uncitral-model-law-ecommerce.htm.
[36] Blythe, S.E. (2011), E-commerce Law Around the World: A Concise Handbook. Xlibris, Corp., ISBN-13: 978-1456856205.
[37] eIDAS is an EU regulatory framework for electronic identification, authentication and trust services (eIDAS) for electronic transactions in the European Singer Market. More information is available at https://www.eid.as/home.
[38] Hague Conference on Private International Law, *Convention Abolishing the Requirement of Legalisation for Foreign Public Document* (1961). Available at https://www.hcch.net/en/instruments/conventions/full-text/?cid=41.

convenient to all concerned. The processes could be replicated for other applications as well, where only the relevant parts of the data are shared for specific purposes. The General Data Protection Regulation (GDPR) of the European Union (EU)[39] provides rules for the protection of people when processing personal data, as well as rules related to the movement of personal data within the EU. It is a useful model for regulations on the subject. The GDPR also operates with the concept of 'Privacy by Design' which holds that organizations need to consider privacy at the initial design stages and throughout the complete development process of new products, processes or services that involve processing personal data.

6.1 Identity fraud and special requirements

Systems are prone to constant attempts at identity fraud. This include attempts at impersonation and incorrect reporting with a view to obtaining additional state benefits, as well as crimes such as identity theft for criminal and commercial purposes. The Dutch system has many intelligent checks that effectively address such issues.[40] For example, in order to detect multiple birth records, intelligent checks are linked to the mother's records.

Countries have also identified special identity search requirements and how CR can support individuals searching for their family roots, especially when relatives are lost during conflicts. For example, when infants and young children removed from former war zones return to seek family information, they often encounter scanty information about their origins or family names.[41]

This also highlights the need for incorporating back-data in modern ICT-based CR systems as well as the need for a focus of digitally archiving old records. This process is cumbersome and resource intensive when dealing with old and fragile documents. The full benefit of an ICT supported system, does, however, necessitate the need for linking old records with new entries and clarifying family relationships.

Conclusions

While ICT is not a silver bullet for enhancing CR performance, it can be effectively deployed to strengthen existing CR practices, bring them closer to international principles, and help achieve compulsory, continuous, permanent, and universal coverage while ensuring timeliness, accuracy, trust and confidentiality.

Based on the findings of this paper, it is concluded that:
1. To be effective, the significant potential in using ICT to improve civil registration practices must be accompanied by capacity building and institutional coordination.
2. ICT systems tend to be designed for operational efficiency and frequently miss out on bringing the beneficiary closer to the service provider. ICT systems should be designed with inclusion in mind, putting people at the centre.
3. Administrative processes (issuing UINs, CR and CI working together, etc.) need to be adequately reflected in the ICT systems and the legal framework.
4. The ICT systems need to consider the integrated ways of working within institutions (e.g., integrating with systems employed by health institutions) as well as using innovative technologies at remote locations.
5. The responsible use of technologies and threats to data protection is critical when designing ICT infrastructures. A 'privacy by design' approach may limit the risk of privacy breaches.

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[39] European Commission (2016), *Regulation (EU) 2016/679 of the European Parliament and of the Council.* Available at https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1532348683434&uri=CELEX:02016R0679-20160504.

[40] European Commission (2019), *Digital Government Factsheet 2019.* Available at https://www.government.nl/.

[41] Verwimp, P. (2004), *Death and survival during the 1994 genocide in Rwanda.* Available at https://www.researchgate.net/publication/8504078_Death_and_survival_during_the_1994_genocide_in_Rwanda.

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CONCLUSIONS AND RECOMMENDATIONS

"MEETING OF THE CIVIL REGISTRATION PROFESSIONALS OF SOUTH ASIA"

Kurumba Resort, Maldives
26-28 November 2019

From 26-28 November 2019, the second gathering of Civil Registration Professionals of South Asia (CR8) took place in the Maldives with the support of the United Nations Children's Fund (UNICEF) in South Asia and the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP). Participants included 19 government experts from Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, and Pakistan, as well as representatives from CDC Foundation, Consejo Latinamericano y del Caribe de Registro Civil, Identidad y Estadisticas Vitales, ESCAP, Data for Health Initiative, IDRC-Centre of Excellence for CRVS, Pacific Civil Registrars Network, UNICEF, and the Statistics Division of the United Nations Department of Economic and Social Affairs. In addition, a government representative from Philippines and four independent consultants attended.

The meeting aimed to (i) address common concerns on civil registration in South Asia, including cross-border issues; (ii) provide a platform for professionals to share innovative practices; (iii) provide information and inputs for the Second Ministerial Conference on CRVS; and (iv) foster a professional network of organizations and individuals from South Asia involved in civil registration.

Participants were updated on the United Nations Legal Identity Agenda. Central to this is a recently agreed United Nations definition which confirms that legal identity is conferred through civil registration. 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. In the case of refugees, legal identity should be through civil registration,

although on occasion it could be through an internationally mandated authority. It is necessary to identify those who are not registered in the civil registry, including those who may not want to be part of the system. An important development is the move from speaking about CRVS to CRVSID, acknowledging the linkages between all three systems. The group was informed about the Regional Action Framework on CRVS in Asia and the Pacific, and the upcoming mid-term review of the Asia-Pacific CRVS Decade 2015- 2024.

All countries in South Asia have civil registration systems in need of improvement to reflect international standards, ensure universal registration and deter illegal activities such as marriage below the legal age. Government experts shared their experiences with legislation that governs civil registration, marriage and divorce registration, as well as with the use of ICT in civil registration. The group discussed challenges and opportunities in each of these areas.

LEGISLATION

Laws provide the framework for the implementation of a civil registration system. Laws should both facilitate rather than block civil registration and be clear and uncomplicated. While it is tempting to allow technological advances to race ahead of the law, any advances in civil registration need to be within the confines of the legal framework; the law should not be overtaken by exceptions. Different tiers of legislation and regulation operate at central and decentralized levels of government. These range from the constitution to laws, procedures, rules and standard operating procedures. Given the dynamic changes in public sector organizations, clients'

demands and technological transformation, frequent review is required to confirm that legislation is accurately covering the needs of the system and that any operational changes introduced are in line with current laws.

Legislation should recognize civil registration as the foundational register, as well as the guiding principles of registration being continuous, permanent, universal, and compulsory. The implementation of the compulsory principle is compromised if the confidentiality of the data is not assured. Laws will be unique for each country, reflecting the national structures. At the same time, common to all, international guidance on CRVS highlights that such laws should be rights-based.

It is important for civil registration laws, policies and procedures to have synergies with other relevant laws, policies and procedures, such as those related to information and communication technology. Synergies with public services are also important. Emphasizing the importance of privacy and confidentiality of civil registration, the legislative framework should also consider existing data protection and privacy laws, and whether additional specific data protection and privacy clauses are required in the civil registration legislation itself. This concern raised questions as to whether civil registration is voluntary or mandatory. Legislation also needs to consider cross border verification and authentication of information; in which context the Apostille Convention could be useful.

Several learnings were shared by participants. These included the importance of having a common oversight mechanism for civil registration, particularly in countries with a decentralized system. The challenges to civil registration laws posed by new patterns of

relationships, such as same sex marriage, was another area of learning. Relationships with the state can also pose challenges for groups such as refugees, forcibly displaced populations and internally displaced populations. The registration of the vital events of refugees and forcibly displaced populations is a separate process from the delineation of citizenship or receipt of/entitlement to services. There should therefore not be any impediments to register non-citizens who are residents of the land.

All countries in the region have laws that govern civil registration, with each country having a unique administrative setup. Some laws may be partially outdated and in need of review. The introduction of one single law covering all vital events, and possibly civil identity, could be considered in such a review. The participants recognized that there would be opportunities during such a law reform process to further align with the United Nations Department of Economic and Social Affairs Principles and Recommendations for Vital Statistics System (Rev 3). Alignment with related handbooks, including the data recommended for collection through civil registration records, is also important.

MARRIAGE AND DIVORCE REGISTRATION

Marriage and divorce registration are two important vital events. Accordingly, there was a strong recommendation that the registration of these events be at least linked to birth and death registration, if not all, of the vital events. This is challenging, particularly in countries where marriage and divorce registration is not connected with a registration system, but only with a judicial structure. Without a more centralized system it can be difficult for the civil registry to authenticate whether a person is married or divorced.

This can result in multiple (illegal) marriages, affecting child and spousal support and negating the protection for the new partner(s). The civil status of a person may link to entitlements such as social protection. Therefore, there is a demand for the civil registration offices to respect the privacy of the individual and maintain confidentiality, yet find secure ways provide the necessary information in order that the individual can access other services.

Marriage and divorce are layered with many socio-cultural realities. In some cases, there is a challenge with the portability of same-sex and polygamous marriages that are registered in other countries or states. Divorce may also face some portability challenges when a divorce in one country is not recognized in another. The registration of marriage needs to accommodate the various forms of marriage permitted in a country. In many countries religious practices are accommodated within the marriage and divorce practices, which goes hand-in-hand with an enabling legal framework.

Socio-cultural realities can be barriers to registration of marriage and of divorce. For example, the practice of dowry can curb marriage registration; the risks of stigma can

hinder registration, particularly of divorce; and the lack of financial independence can restrict a person obtaining a divorce certificate. In addition, some individuals may not register events to hide illegal activities such as multiple marriages and child marriage. This raised questions among participants as to whether marriage itself should be made 'harder' through measures such as introducing marriage licenses or permits which create additional requirements for collecting and verifying data related to civil registration.

The data for marriage and divorce registration is limited and it could be useful to add a question on registration and certification of these two vital events in MICS and DHS questionnaires. Although all countries in South Asia have made a commitment to end child marriage by 2030, the practice continues in all countries in the region. Birth and marriage registration are tools for both preventing child marriage and for protecting the child from child marriage. There was a call from participants for 'disrupting the picture,' particularly in the case of child marriage. This could be supported through a more centralized marriage and divorce registration system, integrated with the registration of other events.

THE USE OF INFORMATION AND COMMUNICATION TECHNOLOGIES FOR CIVIL REGISTRATION

ICT systems have been introduced to the civil registration processes in all countries of the region. In developing ICT systems, the civil registration authority needs to consider the legislative framework, the institutional arrangement, the administrative process, human resources and deployment of the technology. ICT design needs to match the law, the administrative procedures and the capacity of the country and people involved. ICT systems should contribute to maintaining the CRVS guiding principles of continuous, permanent, compulsory and universal recording of data. They must also contribute to the additional principles of timeliness, accuracy, trustworthiness and confidentiality. Responding to each of these areas reflects a holistic approach to civil registration.

ICT provides opportunities to make the system more robust. For example, it can limit duplicate registrations and improve the validation of records. However, ICT it is not a 'silver bullet' to solve the complexities faced by the registries. While registration is often perceived as simple, on the ground it is more complicated and unique to each country. Led by the government and specifically the civil registry, ICT solutions need to be pragmatic and adaptable to the country reality.

It is rare for an 'off the shelf' solution to solve the problems in a country context. It was thus emphasized that it is the government's responsibility to develop and communicate a strong direction for civil registration that partners and others need to follow. The civil registries must dictate the ICT requirements, not the other way around. In addition, ICT solutions should consider the needs of the other organizations that benefit from civil registration; specifically, the

providers of vital statistics, civil identification, health services and social protection. Other functional databases and services may also be considered.

The civil registry is the agency that provides a person's first identity. Often ICT is developed considering primarily the requirements of the service provider. However, more important is to look at whether the ICT solutions benefit the people who will use it. Thus, the ICT solutions need to be designed and developed with a client-centric perspective. Registering once and being able to access different services saves the government resources and facilitates service access for the person, yet at the same time it raises concerns about data privacy and confidentiality. It is recommended to make the ID numbers random in order to protect a person's identity. When verifying and authenticating a person's information for other government services, any agency that receives information from the civil registry must maintain the privacy of the data and confidentiality defined by the civil registry at a minimum.

MID-TERM REVIEW

In 2021, the Second Ministerial Conference on CRVS in Asia and the Pacific will bring together key stakeholders to assess the progress made towards the region's shared vision of having universal and responsive CRVS systems that benefit all people. The Conference will include representatives of governments, civil society, international development partners, academia and the media. There will be a civil society forum before the conference, as well as space for side events during the conference.

All countries will assess their individual progress. The mid-term progress questionnaire requires collaboration between agencies which contribute different data to the assessment. While countries may not have all the information, this should not deter them from submitting the mid-term questionnaire with the information that they have available. Support for completing the questionnaire is provided by ESCAP and development partners. The mid-term synthesis report will provide the backbone to deliberations at the conference by highlighting progress and existing challenges in the region. The conference aims to celebrate the achievements in the first half of the CRVS Decade and cement commitment to improvements to CRVS in Asia and the Pacific. Countries are encouraged to send high-level delegations to the conference and propose side events and exhibitions which highlight national and regional achievements and activities.

Countries agreed on the central role of national CRVS coordination mechanisms and national CRVS focal points in supporting progress at national level, including developing national CRVS strategies and coordination.

CIVIL REGISTRATION NETWORK (CR8)

The value of cooperation and communication between civil registration professionals across South Asia was acknowledged throughout the meeting. The group learned about the

experience of the civil registration network in Latin America and the Caribbean, as well as in the Pacific. Consejo Latinamericano y del Caribe de Registro Civil, Identidad y Estadisticas Vitales (CLARCIEV) shared the structure of its well-established network (formed in 2005) and the many actions it carries out led by the member States.

For establishing the network, it emphasized the importance of: (i) an international organization to 'watch' and 'motivate' each civil registry; (ii) the individual motivation of each member; and (iii) platforms for communication. Resources for the network come from member fees and a yearly event where private sector partners pay for a stand to present their work.

The Pacific Civil Registrars Network (PCRN), established in 2014, brings together registrars as well as development and business partners. Lessons learned regarding the establishment of the network include: (i) be realistic and start small; (ii) be agile and look for opportunities to meet around other events; (iii) be specific with a small work plan that links to wider priorities; (iv) look for small amounts of money for high value activities; and (v) find one or two people who are willing to lead and allow them to get on with it.

The CR8 Initiator Group formed in 2018 to take the initial steps towards establishing a network of civil registration professionals in South Asia provided a progress report on its activities. These included the publication of three papers from the 2018 meeting, the formation of a google group for all of those present and a WhatsApp platform for the Initiator Group, launching a Facebook page, convening a side meeting of CR8 at Pakistan's First International CRVS Summit and developing a draft CR8 terms of reference and logo.

The meeting participants reviewed the CR8 draft terms of reference. Changes were made to clarify that the group is for civil registration professionals and members of the Coordination Group are expected to utilize their own platforms to carry out their role. With these amendments, the terms of reference were adopted. The meeting expressed interest in collaborating with SAARC.

A Coordination Group was established for the next two years. The co-chairs are Mr. Anir Chowdury from Bangladesh, Dr. Shri Joshi from India, and Mr. Bahadur Hellali from Afghanistan. UNICEF ROSA (Kendra Gregson) and ESCAP (Tanja Sejersen) will act as the secretariat. The membership of the Coordination Group was endorsed with acclamation by the meeting. A selection of logos for the CR8 were appraised by the group and one was adopted.

Next steps:
1) Participants committed to continue the collaboration and information exchange through an informal professional network comprised of those who work, or have worked, with civil registration from the eight countries in South Asia and other entities.

2) The selected logo will be made available in high and low resolution for use by the Coordination Group, which will also define procedures for its use.

3) In formulating its work plan, the Coordination Group should consider:
   a. Developing indicators to measure success;
   b. Developing a platform for communication;
   c. Supporting countries in the region to complete the Regional Action Framework Mid-Term Review;
   d. Facilitating peer learning among CR8 countries;
   e. Carrying out research in areas to be identified; and
   f. Resource mobilization.[1]

4) UNICEF and ESCAP will circulate and publish the three background documents and conclusions and recommendations, incorporating the input from the meeting.

5) The conclusions and recommendations of the meeting will be forwarded to the Regional Steering Group for Civil Registration and Vital Statistics in Asia and the Pacific for: (i) their information; and (ii) consideration for the agenda of the mid-term review of the Regional Action Framework on Civil Registration and Vital Statistics in Asia.

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[1] The Coordination Group should also review and incorporate the suggested actions from the CR8 gathering in Pakistan into the work plan as required.

MEETING ATTENDEES

Meeting of the Civil Registrars of South Asia (CR8) Male, Maldives
26-28 November 2019

Country	Name	Title	Organization
AFGHANISTAN	Mr. Abdul Saboor Mobariz	Director General of Civil Registration and Vital Statistics	National Statistics and Information Authority
	Mr. Ahmad Karim Payab	Senior Technical Adviser	National Statistics and Information Authority
	Mr. Bahadur Hellali	Deputy Director General	National Statistics and Information Authority
BANGLADESH	Mr. Manik Lal Banik	Registrar General (Additional Secretary)	Office of the Registrar General, Birth and Death Registration
	Mr. Alam Muhammad Mesbahul	Deputy Registrar General (Additional Secretary)	Office of the Registrar General, Birth and Death Registration
	Mr. Anir Chowdhury	Policy Adviser	Access to Information (a2i) Programme
BHUTAN	Mr. Thinley Wangchuk	Chief	Department of Civil Registration and Census
	Mr. Jangchuk Norbu	Judge	Judiciary of Bhutan
INDIA	Dr. Vivek Joshi	Registrar General and Census Commissioner	Office of the Registrar General of India, Ministry of Home Affairs
	Ms. Sandhya Singh	Deputy Registrar General	Office of the Registrar General of India, Ministry of Home Affairs
MALDIVES	Mr. Riyaz Mansoor	Deputy Minister	Ministry of National Planning and Infrastructure
	Ms. Aishath Shahuda	Chief Statistician	National Bureau of Statistics
	Ms. Moomina Abdullah	Director	Ministry of Health
	Ms. Fathimath Riyaza	Deputy Statistician	National Bureau of Statistics
	Mr. Ibrahim Shaugee	System Analyst	Department of National Registration
	Mr. Ahmed Amyouni Ismail	Software Developer	Local Government Authority
	Mr. Faisal Adam	Legal Officer	Department of Judicial Administration
NEPAL	Mr. Dipak Kaphle	Director General	Department of National ID and Civil Registration
	Ms. Jyotshna Bhatta Joshi	Section Officer	Ministry of Home Affairs

Country	Name	Title	Organization
PAKISTAN	Mr. Muhammad Islam	Chief of section, RD Planning & Development Department	Civil Secretariat Peshawar
PHILIPPINES	Mr. Fred Sollesta	Assistant National Statistician	Philippines Statistics Authority
Resource persons			
CDC/BLOOMBERG DATA FOR HEALTH INITIATIVE	Dr. Olga Joos	Technical Advisor/ Project Coordinator	Center for Disease Control and Prevention National Center for Health Statistics
INTERNATIONAL DEVELOPMENT RESEARCH CENTRE	Ms. Anette Bayer Forsingdal	Senior Program Specialist	Centre of Excellence for CRVS Systems
VITAL STRATEGIES/ BLOOMBERG DATA FOR HEALTH INITIATIVE	Ms. Joan Sara Thomas	Technical Advisor	Civil Registration and Vital Statistics (CRVS) Improvement Program Vital Strategies (D4H)
UNICEF COUNTRY OFFICES	Ms. Jamila Akhter	Child Protection Specialist	UNICEF Bangladesh
	Ms. Muqaddisa Mehreen	Child Protection Specialist	UNICEF Pakistan
	Mr. Ibrahim Naseem	Monitoring and Evaluation Officer	UNICEF Maldives
	Mr. Munir Safieldin	Representative	UNICEF Maldives
UNICEF REGIONAL OFFICE	Ms. Kendra Gregson	Regional Advisor, Child Protection	UNICEF Regional Office for South Asia
UN ECONOMIC AND SOCIAL COMMISSION FOR ASIA AND THE PACIFIC	Ms. Tanja Sejersen	Statistician	Statistics Division, ESCAP
RESOURCE PERSON	Mr. Frank Nan	Independent consultant	
	Professor Isaac K. Nyamongo	Independent consultant	
	Mr. Sanjay Dharwadker	Independent consultant	
SKYPING – IN PARTICIPANT	Mr. Jean-Michel Durr	Civil Registration Consultant	Institute of Statistics, France
	Mr. Jeff Montgomery	Registrar General for Births, Deaths and Marriages	Department of Internal Affairs, New Zealand
	Mr. Srdjan Mrkic	Chief of Demographic Statistics	United Nations Statistics Division
	Mr. Luis Felipe Murcia Gerrero	Deputy for Bilateral and Private Sector Relations	National Civil Registry, Colombia